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DARWIN ON TRIAL AT THE OLD BAILEY

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DARWIN ON TRIAL

AT THE
OLD BAILEY

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DEMOCRITUS

LONDON
THE UNIVERSITY PRESS, LIMITED
WATFORD, LONDON

19 . .

To the Right Honble. Sir Matthew White Ridley

DEDICATED BY

Democritus

DRAMATIS PERSONÆ:—

Mortals : The Lord Mayor of London.

The Recorder of London.

The Clerk of Arraignment.

Alexander Gilbert, prisoner.

Sir Richard Bully, Q.C., counsel for the prosecution.

Macintosh Wood, counsel for the defence.

Ernest Trunk, counsel for a third party.

William Newton Cecil, a scientist.

Andrew Slyman, Scotland Yard detective.

Gordon Sweetley, Scotland Yard detective.

The Rev. Christopher Whitfield, a clergyman.

Lizzie Hockey, housekeeper.

Psyche Hockey, her daughter.

William Jones, family grocer, foreman of the jury.

John Brown, baker, juryman.

James Smith, oilman, juryman.

Elias Short, shoemaker, juryman.

Immortals : The ghost of Galileo Galilei.

The ghost of Goethe.

The ghost of Charles Darwin.

Solicitors, Witnesses, Detectives, Ushers, Prison Warders.

Scene : The Central Criminal Court at the Old Bailey.

AT THE OLD BAILEY.

[THE PRISONER, a haggard and worried-looking man of gentlemanly appearance, standing in the dock between two warders. Jurymen chattering in the box at the left, counsel and solicitors busying themselves with papers in the well of the court, which is crowded with lady and gentlemen spectators. The turmoil abates in consequence of a rap by the usher and the emerging from behind a heavy curtained door of the Lord Mayor and of the Recorder in their official robes.]

THE USHER: Silence! His Lordship.—*After a pause*—Regina v. Gilbert.

THE CLERK OF ARRAIGNS: Alexander Gilbert, you are indicted for being a person of a wicked and depraved mind and disposition, having unlawfully and wickedly devised, contrived, and intended, to vitiate and corrupt the morals of the liege subjects of our Lady the Queen, to debauch and poison the minds of divers of the liege subjects of our said Lady the Queen, and to raise and create in them disordered and lustful desires, and to bring the said liege subjects into a state of wickedness, lewdness, and debauchery, and for having on the 20th day of June in the year of our Lord one thousand nine hundred and ninety-eight, at a certain shop in Booksellers Lane in the county of London, and within the jurisdiction of this court, unlawfully, wickedly, maliciously, scandalously, and wilfully published, sold, and uttered a certain lewd, wicked, bawdy, scandalous, and obscene libel . . .

A VOICE IN COURT: Splendid, beautiful! Grand indeed!

THE RECORDER OF LONDON: Silence! This interruption is quite scandalous; if anything of this sort is repeated, the court will be cleared.

THE CLERK OF ARRAIGNS (*continuing*): and obscene libel in the form of a book entitled *Sexual Selection and Human Marriage*, alleged to be written by William Newton Cecil, in which book are contained, amongst other things, divers wicked, lewd, impure, scandalous, and obscene libels, and matters, which said book is, pursuant to the provisions in that behalf of the Law of Libel Amendment Act, 1888, to the manifest corruption of the morals and minds of the liege subjects of our said Lady the Queen, in contempt of our said Lady the Queen, and her laws, in violation

of common decency, morality, and good order, and against the peace of our said Lady the Queen, her crown, and dignity. Alexander Gilbert, are you guilty or not guilty?

THE PRISONER: Not guilty.

SIR RICHARD BULLY, Q.C.: The offence with which the prisoner is charged is a very grave one. The contents of the incriminated book are of such a character that the jury and your lordship will blush for shame that such obscenity could be published in this country.

THE RECORDER: I see a number of ladies in this court. We are about to hear that which no decent woman ought to hear, and, if there is any woman in court with any decency at all in her, she will at once go out. She, of course, has a right to stay, if she wishes, but I feel sure, no decent woman will remain in court while these things are being read.

A FEMALE VOICE FROM THE AUDITORIUM: We protest against this insult.—(*Uproar in court.*)

THE RECORDER: Silence! If I knew the author of this remark, she would soon regret this serious contempt of court. I assume that all decent women have left the court, the others may remain.

SIR RICHARD BULLY: I beg to suggest that the incriminated passages in this book be read to your Lordship and to the jury only, that is in a low voice, so as not to corrupt the morals of the many who came to this court only for the satisfaction of a morbid curiosity.

MR. MACINTOSH WOOD (*for the defence*): I most emphatically object to this course. We maintain that this work is scientific in conception and execution, that it contains not a single obscene or suggestive sentence, and that it has been published in the interest of science and for the public benefit. The suppression of this book, which is written by an eminent scientific authority, we consider as a public calamity, and this prosecution as a blemish on the common sense of the English nation.

SIR RICHARD BULLY: My learned friend seems very sure of his

case, and with your lordship's permission I will withdraw my proposal to read the indicted passages to the jury only.

THE RECORDER: The course suggested by counsel for the prosecution is irregular and the passages must be read aloud.

SIR RICHARD BULLY: Very well. Before I proceed to explain the nature of the charge I may mention that at the prisoner's place of business a large portfolio containing indecent photographs has been found.

MR. MACINTOSH WOOD: I object to this statement, which is brought forward only to prejudice my client's case. These photographs do not form part of the indictment; but besides they are reproductions of masterpieces of art.

THE RECORDER: I suppose that counsel for the prosecution will produce the photographs only to show the kind of literature in which the prisoner dealt at his shop.

SIR RICHARD BULLY: Certainly, my lord; I mentioned them only as an introduction so that the jury may be able to form an opinion of the kind of books and pictures the prisoner sold at his business place. This prosecution has been commenced by the Commissioner of Police, and the sale of the incriminated book, *Sexual Selection and Human Marriage*, took place at the prisoner's shop on two different days to two detectives of Scotland Yard, who will be called to state that in one case the prisoner himself sold the book, and received the money demanded for it, viz., ten shillings, in the other a young girl, Psyche Hockey, the daughter of the prisoner's housekeeper, sold a copy in the temporary absence of the prisoner. Of course, these two instances are only a few amongst many hundreds, as you will hear from the detective Slyman, who received the statement as to the large sale of this book from the prisoner himself. Psyche Hockey is only seventeen years old, and it is terrible to think that she handled this book, and perhaps read it. She was often seen reading in the prisoner's shop, and the title of this work must have been very attractive to her. Mr. Slyman and Mr. Sweetley will tell the jury that they have read the book, and have been disgusted with its contents. I must also mention a very suspicious incident connected with this

case. A clergyman, named Christopher Whitfield, a parson in the country, ordered from the prisoner, who advertises all sorts of new and second-hand books, a copy of a Bible, and with his order forwarded a postal order for two shillings and sixpence. You may imagine his surprise when, instead of the Bible, he received a copy of *Sexual Selection and Human Marriage*. We will call this gentleman, and he will tell you of his surprise and indignation on receiving this book, which he returned forthwith. This seems a clear attempt to corrupt the morals of one of Her Majesty's liege subjects. I dare say the prisoner would have sold the book to any innocent young man or girl that would have asked for a copy, but the police authorities have happily prevented him from continuing this pernicious trade, and from poisoning the minds of pure and religious people.

MR. MACINTOSH WOOD: I must again object. These statements are absolutely out of place as, according to my learned friend's own assertion, they will not come out in evidence, but are only surmises.

SIR RICHARD BULLY: Very well, I will not dwell on possibilities or probabilities, if my learned friend objects; we have plenty of facts in the existence of the indicted passages in the book which I hold in my hands. They are very numerous. Many of them, on the surface, may not appear to be obscene or indecent to the ordinary mind, but the jury will soon detect that they have a hidden meaning. The jury will also, from the headings of different chapters, be able to judge the character of the book. I will give here a few without comment. I may also point out that the title *Sexual Selection* is already highly suggestive and obscene, and, as the indictment says, may create lustful desires in the liege subjects of our gracious Queen. The sub-headings are on the same line: — Supernumerary Mammæ and Digits — Rudimentary Mammæ in Males—Nakedness—Monogenists and Polygenists—Sexual compared with Natural Selection—Sexual Colours—Love Antics and Dances.

These, gentlemen, are sub-titles indicating the contents of chapters, and you will, from these alone, understand how wicked this book is. But the chapters on natural and sexual selection in

this book are mild indeed if we compare them with those on marriage. The definition of marriage, which the writer gives, will show you what a licentious man the author must be. He says: "*I agree with Westermarck that for the purpose of this investigation marriage is nothing else than a more or less durable connection between male and female, lasting beyond the mere act of propagation till after the birth of the offspring.*"

I do not know who Westermarck is, but he must be as depraved as William Newton Cecil, who wrote this book, if this definition of human marriage emanates from him. The book makes us acquainted with contemptible vices and customs, like polygamy, polyandry, and even prostitution. It describes the customs, alleged customs of savages of which you gentlemen of the jury without doubt have been ignorant, of which I have been ignorant until it became my sad duty to read this book. In one of the chapters the author speaks of a "human pairing season" as if we were animals, he deals with promiscuity, and, without reproving this shocking vice, he describes people where the wives of a community or tribe belong to all the men of the tribe as a common property. The book speaks also of incest and of marriage by capture, and here again the author has no word of blame or censure, he manifests no disgust at these abominable practices.

It will be impossible to read to the jury all the objectionable passages in this book, I will read the more important after having proved the sale of the book to the detectives.

MR. ERNEST TRUNK (*for the author of the book*): I appear for the author of this book, who has been severely attacked by Sir Richard. He is a well-known man of science, and is prepared to take the whole responsibility for the contents of the book on his shoulders. He is in court.

THE RECORDER: At present we have nothing whatever to do with this author, and you have no *locus standi*, but counsel for the defence may call him as a witness if he chooses.

MR. MACINTOSH WOOD: I will do so.

SIR RICHARD BULLY: Mr. Andrew Slyman, you are a police

officer attached to Scotland Yard, you know the prisoner. Will you tell his lordship and the jury how you made his acquaintance?

MR. ANDREW SLYMAN: In consequence of instructions we received from the Commissioner of Police I went to the prisoner's shop in Booksellers Lane, where he keeps a large stock of books new and second-hand, also of photos and engravings. I asked the prisoner to supply me with a copy of Cecil's book entitled *Sexual Selection and Human Marriage*.

SIR RICHARD BULLY: Did you inform the prisoner of your identity?

MR. ANDREW SLYMAN: No, of course not; I bought the book as a customer interested in the subject of "Sexual Selection."

SIR RICHARD BULLY: Was the book concealed, or was it on an open shelf accessible to inspection to every comer?

MR. ANDREW SLYMAN: It was amongst other books on a shelf. The prisoner took it down, and I paid ten shillings for the copy. I asked him if he had sold many copies of the same book, and he said, "Yes, heaps of them, it is a very important work." Then I asked him if the contents were spicy or risky. "Oh no, not at all," he said, "purely scientific."

SIR RICHARD BULLY: Then there was no attempt at concealment, every young man or girl could have obtained a copy of the book?

MR. ANDREW SLYMAN: Yes, I am sure of it, the prisoner seemed quite unconscious of the danger hidden in this book, and of the danger he was running in selling it.

SIR RICHARD BULLY: A few days later you arrested the prisoner on a warrant and you searched his shop. Did the prisoner make any remark then?

MR. ANDREW SLYMAN: When I read the warrant to him he burst out laughing, and after a pause he said, "Well, a nice job, man, do you mean to say that the prudes in dear old England will dare to indict Darwin, and Huxley, and Westermarck? Ha, ha!

I suppose the next move will be to arrest Herbert Spencer. Fancy evolution tried at the Old Bailey. A splendid joke." "Well," I said, "it will not be a joke to you anyhow, six weeks in Holloway will change your views entirely, and two years hard labour may follow if you remain obstreperous." But he continued to laugh at the idea, and I took him to Bow Street.

SIR RICHARD BULLY: How many of these books did you seize, and what did you find besides the books?

MR. ANDREW SLYMAN: About three dozen copies, and I found the portfolio containing twenty indecent photographs which I also took to Bow Street Police Station. The photos were in a large portfolio, the same which is on the solicitors' table.

MR. MACINTOSH WOOD (*for the defence*): Mr. Slyman, why did you seize these photos, and how could you consider yourself a judge of their character, indecent or otherwise?

MR. ANDREW SLYMAN: Because they represented men and women perfectly nude.

MR. MACINTOSH WOOD: Oh, I see; would you then consider a picture of Adam and Eve in Paradise, perfectly nude, an indecent picture, and would you seize a Bible containing such a picture?

MR. ANDREW SLYMAN: That's a different thing, I would never seize the Bible, but these are Greek gods and goddesses, a Venus as they call her, and a Psyche, and other immoral persons.

MR. MACINTOSH WOOD: Oh, immoral persons are they. Take this picture, one out of the portfolio; do you know what it represents?

MR. ANDREW SLYMAN: No, sir, there are three nude men, an old one and two young ones and a snake.

MR. MACINTOSH WOOD: Do you really mean to say that you do not know that this is a representation of one of the greatest works of art, *Laocoon*, and do you mean to say that you have never seen this second photograph before, the *Apollo of the Belvedere*, and this third one, the *Dying Gladiator*; you see nothing in these

sculptures but nude men, designed to corrupt the morals of Her Majesty's subjects?

MR. ANDREW SLYMAN: I see nothing but nude figures, but these you name are all males; there are plenty of females amongst these photos.

MR. MACINTOSH WOOD: Oh indeed, I suppose you consider the nude female more indecent than the nude male; well we will come to that question later on. Tell me, Mr. Slyman, did the reading of this book corrupt your morals, and did it create lustful desires?

MR. ANDREW SLYMAN: Yes, sir, it did, I was disgusted and shocked.

MR. MACINTOSH WOOD: That is what I wanted to know; if you were disgusted and shocked it cannot have affected your morals.

SIR RICHARD BULLY: But did not the book create lustful desires in your mind, which you only suppressed by moral force?

MR. ANDREW SLYMAN: Yes, sir, of course it did, I read the book twice.—(*Laughter in court.*)

SIR RICHARD BULLY: I will now call the other detective, Mr. Gordon Sweetley, who bought another copy of the book. Mr. Sweetley, you went to the prisoner's shop two days after Mr. Slyman bought the copy of *Sexual Selection*; whom did you find there?

MR. GORDON SWEETLEY: The prisoner was out, and the house-keeper, Mrs. Hockey, was in the shop with her daughter, Psyche, a young girl of seventeen, who sold me the copy of the book and took the money.

SIR RICHARD BULLY: Who handed you the book?

MR. GORDON SWEETLEY: The girl did, she smiled when she took it down from the shelf.

THE RECORDER: Do you suggest that this girl of seventeen sold this book to you knowing its contents?

MR. GORDON SWEETLEY: I am not certain, your lordship, but I

believe she did, because she looked at me so funnily, as if she was thinking I wanted to get information about matrimony. I know the girl, and she knows that I am engaged, or rather that I was engaged.

MR. MACINTOSH WOOD: Tell us, Mr. Sweetley, did you read this book, and did you understand a word of its contents, and were your morals really corrupted by the study of this work?

MR. GORDON SWEETLEY: Yes, sir, I read every bit of it, and I understand a good deal, not all of course. As to my morals I am sure I do not know, but since I have read this book I have broken off my engagement to marry, because I have found out that the young lady was not the proper sexual selection for me.—(*Loud laughter in court.*)

THE RECORDER: This laughter is very unseemly, and I will have the court cleared if it should be repeated.

SIR RICHARD BULLY: Mrs. Lizzie Hockey, you are the house-keeper at the prisoner's house in Booksellers Lane. What do you know of the prisoner?

MRS. LIZZIE HOCKEY: Oh, sir, he is a very nice and quiet gentleman, he pays my wages very punctually, and never stays out at night, never, and he is a hard-working man, always reading and studying them books, and caterlogging them, and writing letters, and thinking, thinking, thinking from morn to night.

SIR RICHARD BULLY: That will do, Mrs. Hockey. Did you sell books for Mr. Gilbert, and did your daughter Psyche sell books for him?

MRS. LIZZIE HOCKEY: I never sells books, but Psyche does. But, sir, honly hexceptionally, when his clerk is ill, and Mr. Gilbert is out for lunch. Psyche is often in the shop, she knows all them books, and she reads a good many of them.

THE RECORDER: Mrs. Hockey, tell me, has your daughter, as far as you know, read the book which she sold to Mr. Sweetley, and do you mean to say that the prisoner allowed her to read such books?

MRS. LIZZIE HOCKEY: I do not know, I am sure, but very likely she has read it, 'cause she spoke about the serlections, sectional serlection I believe it is.

THE RECORDER: Shocking!

THE LORD MAYOR: Shocking!

MRS. LIZZIE HOCKEY: Why, gentlemen, Psyche is the most hinnocent gal you ever saw, and them blessed books have not hurt her morals, I am sure, yes I am.

SIR RICHARD BULLY: We dare not call this girl of seventeen as a witness for fear to trespass on her modesty. The jury must form their own opinion whether the prisoner has placed this book into the hands of Psyche.

MR. MACINTOSH WOOD: Oh no, the jury will do nothing of the sort, we shall call Psyche as a witness for the defence.

THE LORD MAYOR: Scandalous!

(The Recorder, the Foreman of the Jury, and Sir Richard Bully shake their heads in astonishment.)

SIR RICHARD BULLY: Mr. Christopher Whitfield, you are a clergyman of the Church of England. In March last you ordered from Alexander Gilbert, the prisoner, a book; what book was it you ordered, and what book did you receive?

THE REV. CHRISTOPHER WHITFIELD: I ordered a copy of the Bible, but I got a book with the title, *Sexual Selection and Human Marriage*. I returned this book, and I received the copy of the Bible in the end. The bookseller wrote that the parcels had been mixed up, and the wrong book had been sent by mistake, but I assure you, I did not believe the story.

SIR RICHARD BULLY: Did you read the book *Sexual Selection and Human Marriage* before you returned it?

THE REV. CHRISTOPHER WHITFIELD: No, certainly not, the title indicated the contents, and besides the sheets were uncut.

MR. MACINTOSH WOOD: Did you consider the sending of the wrong book to be intentional on the part of the accused, and why?

THE REV. CHRISTOPHER WHITFIELD: Yes, I did consider it to be intentional. There are so many wicked booksellers in London, Atheists, Agnostics, and Infidels, whose principal aim in life it is to put temptations in the way of unsuspecting people. And *Sexual Selection and Human Marriage* is such a tempting title that a man of inferior moral strength might have kept the book to read it.

MR. MACINTOSH WOOD: What, instead of the Bible?

THE REV. CHRISTOPHER WHITFIELD: Yes, sir, we country parsons frequently receive books, pamphlets, and newspapers free of charge, and these can only be sent for the purpose of poisoning the mind and for corrupting the soul. I myself have received the most blasphemous of infidel publications, Bradlaugh's *National Reformer*, for a whole year, and post free, but I assure you I burned every copy of it on arrival.

MR. MACINTOSH WOOD: And have you never heard of "Sexual Selection" and "Natural Selection" as scientific terms to describe certain biological processes or phenomena?

THE REV. CHRISTOPHER WHITFIELD: No, never.

MR. MACINTOSH WOOD: As an educated man did you never hear of Charles Darwin?

THE REV. CHRISTOPHER WHITFIELD: Charles Darwin, yes I heard of him, he is the man who says that man descends from the ape, and that the whole of Genesis is a myth; he is one of the worst of latter-day infidels; yes I heard of him.

MR. MACINTOSH WOOD: He is dead, Mr. Whitfield; have you read any of his books, that you are so sure about his wickedness?

THE REV. CHRISTOPHER WHITFIELD: No, and I do not want to. I have been warned of this man's writings when I was a young undergraduate at Oxford. I have heard that all the young fellows who followed him and his associate, Huxley, did come to grief.

MR. MACINTOSH WOOD: Have you indeed! Anyhow it seems certain that the accused, if he intended to corrupt your morals by sending a substitute book for the Bible, failed ignominiously as you returned the book unread, is that so?

THE REV. CHRISTOPHER WHITFIELD: Yes, that is so; but a weaker man may have succumbed to the temptation, and that is the reason why I communicated with the police.

MR. MACINTOSH WOOD: What, without knowing the contents of this book you denounced it to the police?

THE REV. CHRISTOPHER WHITFIELD: The title indicates the contents quite clearly; besides I glanced at the introduction, and came across the definition of marriage.

MR. MACINTOSH WOOD: Perhaps it was a little more than a glance. Thank you, Mr. Whitfield, I see that you are at the bottom of this prosecution.

SIR RICHARD BULLY: I will now proceed to read some of the incriminated passages. The book deals first with sexual matters in general and with sexual selection; it ignores in a most outrageous way the history of creation, and especially the creation of Adam and Eve, but it is not my intention to dwell on this subject in particular. I shall rather ask you, gentlemen of the jury, to judge for yourself when you hear the passages which the prosecution has found objectionable. I will read first those pseudo-scientific sentences, and then the remarks on marriage.

The first passage is headed "Embryonic Development."

"Man is developed from an ovule, about the 125th of an inch in diameter, which differs in no respect from the ovules of other animals. The embryo itself at a very early period can hardly be distinguished from that of other members of the vertebrate kingdom."

You will observe, that by stating that the ovule of *other* animals is not to be distinguished from that of man, the writer implies that man is an animal, and his whole work is based on this premiss.

What shall we say to the following supposition?

"If men were reared under precisely the same condition as hive-bees, there can hardly be a doubt that our unmarried females would, like the worker

bees, think it a sacred duty to kill their brothers, and mothers would strive to kill their fertile daughters; and no one would think of interfering."

(The Recorder remains immovable, but the Lord Mayor and the Foreman of the Jury shake their heads in disgust.)

SIR RICHARD BULLY (*continuing*): Here the author deals with a more risky subject; he states that man, like females, yield milk:—

"It may be suggested that long after the progenitors of the whole mammalian class had ceased to be androgynous, both sexes yielded milk, and thus nourished their young."

And further:—

"In man and some other male mammals these organs have been known occasionally to become so well developed during maturity as to yield a fair supply of milk."

Here is another specimen of the writer's speculation:—

"The vesicula prostatica, which has been observed in many male mammals, is now universally acknowledged to be the homologue of the female uterus, together with the connected passage."

Now we come to "Sexual Selection":—

"We are, however, here concerned only with sexual selection. This depends on the advantage which certain individuals have over others of the same sex and species solely in respect of reproduction. When, as in the cases above mentioned, the two sexes differ in structure in relation to different habits of life, they have no doubt been modified through natural selection, and by inheritance limited to one and the same sex. So again the primary sexual organs, and those for nourishing or protecting the young, come under the same influence; for those individuals which generated or nourished their offspring best, would leave, *cæteris paribus*, the greatest number to inherit their superiority."

It seems that there is a difficulty in demonstrating Sexual Selection, as we will see from the passage which I will read now:—

"Our difficulty in regard to sexual selection lies in understanding how it is that the males which conquer other males, or those which prove the most attractive to the females, leave a greater number of offspring to inherit their superiority than their beaten and less attractive rivals."

Then the author of this book goes into the question of the fertility of women and the results of sexual selection, and he deals with the gorilla just as he does with man whom God made in His image as we all know, and quite distinct from apes and other animals. Here he speaks of the gorilla and others:—

"The gorilla seems to be polygamous, and the male differs considerably from

the female; so it is with some baboons which live in herds containing twice as many adult females as males. In South America the *mycetes caraya* presents well-marked sexual differences, in colour, beard, and vocal organs; and the male generally lives with two or three wives."

You will observe, gentlemen, that in this sentence the females of apes are called wives.

I will not tire you with more of these apparently scientific remarks, which, in reality, are as obscene as the rest. What shall we say to this description of a nude Hottentot woman:—

"With many Hottentot women the posterior part of the body projects in a wonderful manner; they are steatopygous; and Sir Andréw Smith is certain that this peculiarity is greatly admired by the men. He once saw a woman who was considered a beauty, and she was so immensely developed behind, that when seated on level ground she could not rise, and had to push herself along until she came to a slope.

"According to Burton, the Somal men are said to choose their wives by ranging them in a line, and by picking her out who projects farthest *a tergo*."

What the writer of this book thinks of love and marriage is summarised in a few words:—

"The final aim of all love intrigues, be they comic or tragic, is really of more importance than all other ends in human life. What it all turns upon is nothing less than the composition of the next generation. . . . It is not the weal or woe of any one individual, but that of the human race to come, which is here at stake."

The author has no word of reproach for the Kandyan chief whom he mentions in the following passage:—

"An intelligent Kandyan chief, of course a polygamist, was perfectly scandalised at the utter barbarism of living with only one wife, and never parting until separated by death. It was, he said, just like the Wanderoo monkeys."

The chapters on infanticide and the polyandry resulting from the murder of female babies are as disgusting as the rest; what shall we think of this remark:—

"Wherever infanticide prevails the struggle for existence will be in so far less severe, and all the members of the tribe will have an almost equally good chance of rearing their few surviving children."

And speaking of our marriage customs:—

"In our own marriages the 'best man' seems originally to have been the chief abettor of the bridegroom in the art of capture."

It is as ridiculous as it is indecent what the writer of this book

says about nakedness ; it is the result of sexual selection, that our body is not covered with hair like that of a dog.

“The absence of hair on the body is to a certain extent a secondary sexual character ; for in all parts of the world women are less hairy than men. Therefore we may reasonably suggest that this character has been gained through sexual selection.”

The chapters dealing with sexual selection as an introduction to those on marriage, of course the marriage as defined by Mr. Cecil, are summed up in these words :—

“Man scans with scrupulous care the character and pedigree of his horses, cattle, and dogs before he matches them ; but when he comes to his own marriage he rarely, or never, takes any such care.”

Here you see what the author is driving at, and you will judge if that aim is not highly immoral. A passage veiled by scientific terms, but dealing with an immoral subject is the following :—

“There is reason to believe that the sexual reproductive cells are spores which, by the loss of certain of their constituents, have undergone sexual differentiation, and that those sexual organs which directly take part in the sexual process without the intervention of reproductive cells are sporangia which have undergone sexual differentiation in the same way. This is finally proved by the fact that in cases in which the normal phenomena of sexual differentiation do not take place the reproductive cells can germinate without fertilization, and the female sexual organ can produce without fertilization cells capable of germination. These cases are examples of that form of apogamy which is known as *parthenogenesis*.”

I will read a similar notice on Hermaphroditism :—

“Hermaphroditism is associated in some cases with the occurrence of parthenogenesis in allied forms ; and it may be noted, as will become clearer hereafter, that for a female to become hermaphrodite is a sort of step towards parthenogenesis.”

The author enters into the minutest details of generation, which should never be mentioned, and certainly never be printed to corrupt the pure mind of our children :—

“In fertilization, distinctly demonstrable morphological processes occur. Of these the important and essential one is the union of two sexually differentiated cell nuclei, the female nucleus of the ovum and the male nucleus of the sperm.”

When he comes to the discussion of human marriage the author becomes clearer in his expression, more bold and not less obscene. The origin of marriage, which we consider as a divine institution,

and many of us as a holy sacrament, Mr. Cecil tries to find in the pairing of animals, and at great length he develops a theory, which must be repulsive to all of us, that the only object of marriage is propagation. That is clear from his definition of marriage which I have cited already. An immense number of footnotes is clearly intended to give this treatise the appearance of a scientific essay, but, gentlemen of the jury, you will not be deceived. We will take the description of marriage customs first; the birth of a child seems to constitute marriage in the opinion of Mr. Cecil, which corresponds to his immoral definition of marriage:—

“Among the Eastern Greenlanders and the Fuegians marriage is not regarded as complete till the woman has become a mother. Among the Shawanese and Abipones the wife very often remains at her father’s house till she has a child. Among the Khyens, the Ainos of Yesso, and one of the aboriginal tribes of China the husband goes to live with his wife at her father’s house, and never takes her away till after the birth of a child. In Circassia the bride and bridegroom are kept apart until the first child is born. Among the Baele, the wife remains with her parents until she becomes a mother, and if it does not happen, she stays there for ever, the husband getting back what he has paid for her.”

And so on we read for many pages about the alleged customs of other nations, and the chapter is concluded by a very cynical remark:—

“That which distinguishes man from the beast is drinking without being thirsty and making love at all seasons.”

Yet in another chapter the author speaks *in extenso* of a human pairing season, and in a long treatise he discusses what he calls the “Hypothesis of Promiscuity.” From this chapter I will read a few extracts:—

“In the Californian Peninsula the sexes met without any formalities, and their vocabulary did not even contain the word ‘to marry.’ Among the Nairs no one knows his father, and every man looks on his sisters’ children as his heirs; a man may marry several women, and a woman may be the wife of several men. It is recorded that, among the Tottiyars of India, brothers, uncles, nephews, and other kindred, hold their wives in common. And among the Todas of the Neilgherry Hills, when a man marries a girl, she becomes the wife of all his brothers as they successively reach manhood, and they become the husbands of all her sisters when they are old enough to marry.”

In the end the writer of this book rejects what he calls “The Hypothesis of Promiscuity,” but again he has no word of censure for

such an abominable practice, and from this the reader must conclude that he approves of it. Many pages in this book are given to the discussion of the *jus primæ noctis*, the French *Droit du Seigneur*. This is a right by might, the right of the king or a chief or a priest to embrace any affianced bride before the lawful husband could touch her. It is unintelligible why the reports of travellers on this subject should be collected in a book like this to satisfy the morbid curiosity of the public on this very regrettable practice of our forefathers and of some savage tribes. Here I will read only a few specimens:—

“There are some instances of *jus primæ noctis* accorded to a particular person, a chief or a priest. Thus among the Kinipetu-Eskimo, the Ankut, or high-priest, has this right. Among the Caribs, the bridegroom received his bride from the hand of the Piache, or medicine man, and certainly not as a virgin. The Spanish nobleman Andagoya states that, in Nicaragua, a priest living in the temple was with the bride during the night preceding her marriage. Navarette tells us that, on the coast of Malabar, the bridegroom brought the bride to the king, who kept her eight days in his palace; and the man took it ‘as a great honour and favour that his king would make use of her.’ Again, according to Hamilton, a Samorin could not take his bride home for three nights during which the chief priest had a claim to her company.”

Numerous similar stories are told in this book of French, Russian, and German landlords, and all for the alleged purpose that the *jus primæ noctis* was not a remnant of communal marriages or promiscuity, but a right of might. This passage here belongs to the same category:—

“Among many peoples, it is customary for a man to offer his wife, or one of his wives, to strangers for the time they stay in his hut. It can scarcely be doubted that such customs are due to savage ideas of hospitality. When we are told that, among the coast tribes of British Columbia, ‘the temporary present of a wife is one of the greatest honours that can be shown to a guest’; or, that such an offer was considered by the Eskimo ‘as an act of generous hospitality’; or that ‘this is the common custom when the negroes wish to pay respect to their guests,’ I cannot see why we should look for a deeper meaning in these practices than the words imply. A man offers a visitor his wife as he offers him a seat at his table.”

You will, gentlemen of the jury, rightly interpret the following:—

“We read that, in the island of Lancerote, most of the women have three husbands, who wait upon them alternately by months; the husband that is to live with the wife the following month waits upon her and upon her other

husband the whole of the month that the latter has her, and so each takes her in turn."

And this passage on a similar subject:—

"Thus polyandry now prevails in several parts of the world. But I shall endeavour to show, later on, that this practice is due chiefly to scarcity of women, and commonly implies an act of fraternal benevolence, the eldest and first married brother in a family giving his younger brothers a share in his wife, if they would otherwise be obliged to live unmarried."

You will observe that in the passage I have just read the author gives us his own opinion.

A chapter headed innocently "Means of Attraction" deals principally with nakedness, and contains many obscene passages:—

"But why should man blush to expose one part of the body more than another? This is no matter of course, but a problem to be solved. The feeling in question cannot be regarded as originally innate in mankind. There are many peoples, who, though devoid of any kind of dress, show no trace of shame, and others who, when they dress themselves, pay not the least regard to what we consider the first requirements of decency. The Papuans of the South-West coast of New Guinea glory in their nudeness, and consider clothing to be fit only for women."

Further down we read in reference to the "garments" of savage races:—

"It seems utterly improbable that such 'garments' owe their origin to the feeling of shame. Their ornamental character being obvious, there can be little doubt that men and women originally, at least in many cases, covered themselves not from modesty, but, on the contrary, in order to make themselves more attractive—the men to women, and the women to men.

"There is nothing indecent in absolute nakedness when the eyes have got accustomed to it. Where all men go naked custom familiarises them to each others eyes, as much as if they went wholly muffled up in garments. Speaking of a Port Jackson woman who was entirely uncovered Captain Hunter remarks: 'There is such an air of innocence about her that clothing scarcely appears necessary.'

"The same view is taken by Dr. Zimmermann, and by Mr. Reade, who remarks that there is nothing voluptuous in the excessive *déshabillé* of an equatorial girl, nothing being so moral and so unlikely to excite the passions as nakedness."

I do not know who Captain Hunter, or Dr. Zimmermann and Mr. Reade are, but you, gentlemen of the jury, from your own experience will indignantly refute the assertion that nakedness is moral

and unlikely to excite the passions. I must read another sentence:—

“There are several instances of peoples who, although they generally go perfectly naked, sometimes use a covering. This they always do under circumstances which plainly indicate that the covering is worn simply as a means of attraction. Thus Lohmann tells us that, among the Saliras, only harlots clothe themselves; and they do so in order to excite through the unknown. In many heathen tribes in the interior of Africa the married women are entirely nude, whilst the young marriageable girls cover their nakedness—a practice analogous to that of a married woman being deprived of her ornaments and her hair.”

Gentlemen of the jury, I do not know if you require the reading of more of these passages. The books which have been seized at the prisoner's business place are at your disposal so that each of you can have a copy for perusal.

THE FOREMAN OF THE JURY: Your lordship, may we stop the case? We are quite convinced of the obscenity of the parts which have been read, and nothing can alter our disgust and our conviction that this book is obscene.

ELIAS SHORT (a jurymen): Oh no, your lordship, the foreman of the jury has no right to speak for the other jurymen, at least not for me. I protest.

THE RECORDER: You must hear the defence, a case cannot be stopped by the jury without having heard counsel for the defence.

THE FOREMAN OF THE JURY: Very well, my lord.

MR. MACINTOSH WOOD: The lugubrious fact that a prosecution of this kind is at all possible in this country constitutes in itself an insult to the British nation; but I have to contend with existing circumstances, and I will lay the defence before the jury with as much calmness and in as brief a form as possible. I hope that you, gentlemen of the jury, will not be prejudiced by the remark of your foreman, who seems anxious to condemn my client without hearing his defence.

The position of the accused is a peculiar one; he is not the author of this book, nor is he the printer or publisher of the volume which forms the object of this prosecution. He has been singled

out from thousands of booksellers who have sold this work, and no notice has been taken by the magistrate, who committed the case for trial, of the well-known author's offer to take the whole responsibility for this publication on his shoulders. You have heard from the mouth of one of the detectives who arrested the prisoner, what Mr. Gilbert said when the warrant was read to him:—

“Do you mean to say that the prudes in dear old England will dare to indict Darwin, Huxley, and Westermarck?”

This remark describes the whole miserable business better than the most eloquent orator could ever describe it. Yes, the prudes have dared, and, more than that, they have scored so far. Mr. Alexander Gilbert, a man of blameless character, has been in prison for six weeks as he could not find the abnormally high bail fixed by the magistrate; his business has been ruined, and his health has suffered so as to cause the greatest anxiety to his friends.

The prosecution really amounts to an indictment of our greatest men, the apostles of evolution, and I shall be able to show that the very passages and sentences which my learned friend has read, are taken verbally from the standard works of Darwin, Huxley, and Westermarck, and one indicted part even hails from the *Encyclopædia Britannica*.—(*Laughter in court; hear, hear.*)

If the advisers of the Commissioner of Police would have studied the footnotes of this work, for which my learned friend has expressed such great contempt, they would at once have been able to ascertain the origin of the different articles.

I have no right to express my surprise that you, gentlemen of the jury, are not acquainted with the works of science which have been admired by the whole civilised world for decades, but I cannot help being astonished at the ignorance of those who are responsible for this wanton prosecution. I do not object to the old truism, “Where ignorance is bliss, it is folly to be wise,” but what I say is that, in a case like this, ignorance cannot be bliss, but it must be a curse.

I will call the author of this work, and he will tell you that

this book is simply a recapitulation of the results of anthropological and biological research, of the science of reproduction and propagation since Darwin. It incorporates the interesting studies made by Westermarck on human marriage, and it sums up the present condition of those sciences which, of all others, are perhaps the most important, and certainly the most interesting for the whole human race.

English prudery is an abnormal growth, it may be compared to malignant cancer which eats away the healthy tissue and thus weakens the whole body.

The prosecution has dexterously used your innate aversion to the discussion of matters sexual for a wanton attack on modern science, and indirectly it slanders by these proceedings our greatest men. Darwin, Huxley, Tyndall, Asa Grey are dead, and cannot defend the accused, but their works live, and these I must invoke for the defence.

The High Court of Justice, to which we have applied to remove this case to the Queen's Bench with the view of bringing it before a special jury, has decided that the jury of the Old Bailey constitutes the proper tribunal for deciding scientific questions of evolution and biology, and I must bow to this decision. I can only hope, gentlemen, that you will grasp the meaning of the passages read to you, and that you will understand the explanation which will be given by the author of the book whom I will call as a witness.

It is a deplorable trick, used by the prosecution, to mix up with this affair the photographs of art works which have been found at Mr. Gilbert's shop. I will show you, that, without exception, these pictures are representations of ancient and modern sculptures, in fact, the greatest of all works of plastic art.

The suggestion that the accused has played the indicted book or other similar books into the hands of Psyche Hockey, a girl of seventeen, will be refuted by Psyche herself, who is a very intelligent girl. But even if Mr. Gilbert had placed the book in her hands no harm could have been done. On the other hand, the photographs of art works will rather educate than corrupt the soul of any pure-minded person.

The definition of marriage which my learned friend finds so shocking, because it does not coincide with Mrs. Grundy's definition, emanates from Darwin's brain, and Westermarck in his work has adopted it. I am sorry for all who do not know the name and the works of the latter scientist; he is the first authority on the anthropological and biological aspects of marriage, not of the legal marriage, but of the marriage as he defines it. His and Darwin's definition is, no doubt, the only workable one for scientific purposes, as it has to include all forms of marriage, that of the savages and apes as well as that of civilised nations, polygamy, polyandry, and monogamy. Natural history and science do not know a marriage for life with a Divorce Court.

The meaning of the term *Sexual Selection* has been thoroughly misunderstood by the prosecution, and you will hear from the author of the book what it really means.

The word *sexual* seems in itself to frighten the uneducated English citizen, and that must account for the Rev. Whitfield's absurd contention, supported by counsel for the prosecution, that the title of this book was indecent and suggestive.

I will summarily dispose of the passages read to the jury, they are one and all of a scientific character, and most of them refer to biological facts, excluding hypotheses and speculation.

My learned friend has remarked that the book ignores the biblical history of creation, and especially that of our alleged parents Adam and Eve. That scientific investigation cannot be based on the stories contained in the Bible has been recognised by cultured men more than two hundred years ago, and I am not here to prove to you that the book of Genesis is not of such a nature as to form the starting point of anthropological science.

The prosecution finds obscenity in the mentioning of the reproductive process, and in the comparison of the generative functions of men and animals. I say that this is the only possible way to arrive at satisfactory results; the arrogance of those who reject the idea that man is an animal, the highest of the mammalia, is deplorable, but not worth a serious argument in contradiction.

As to another passage read by my learned friend, that in which

it is stated that the mammæ of men have occasionally been found so developed during maturity as to yield milk, why, I cannot see how this amply authenticated fact described by Darwin can be considered obscene or suggestive.

It seems that to those who instituted these proceedings, every mention of the reproductive organs appears obscene; but this is as ridiculous as it is absurd. A better knowledge of the reproductive process would indeed be highly desirable.

My learned friend is shocked that the author (in reality it is Charles Darwin) calls the females of the gorilla "wives," but why? Is it because the gorilla is not married at an English church or at an English consulate in an African town? The passage commencing, "The final aim of all love intrigues," which is included in this indictment, is cited by Darwin in his *Descent of Man* as the opinion of one of the greatest of German philosophers, Arthur Schopenhauer.

And who of you, gentlemen, can in his heart object to Darwin's recommendation to use in the breeding of man the same care as we use in the breeding of horses, cattles, and dogs.

The inclusion of a passage from the *Encyclopædia Britannica*, the one on *Parthenogenesis*, in this indictment is highly ridiculous. Not even to the prurient mind can this paragraph appear indecent; it has been mentioned simply to throw sand into the eyes of the jury, as probably not one of you, gentlemen, will understand the meaning of this definition.

Parthenogenesis has never been observed in higher animals, and I must call your attention to the fact that the only case of parthenogenesis in mammalia is that recorded in the Bible, the birth of Christ from a virgin.

THE LORD MAYOR: Shocking!

THE RECORDER: I must ask counsel for the defence to abstain from reference to the sacred books of the Christian Church.

MR. MACINTOSH WOOD: I bow to your lordship's ruling, but I may say that science, ignoring the case mentioned in these sacred books of the Christian Church, has never observed a case of Par-

thenogenesis in man, and the paragraph taken from the *Encyclopædia Britannica* refers to lower animals only, especially to tenthredinæ, cynipidæ, and crustacea.

The same remark applies to hermaphroditism.

The descriptions of marriage customs and rites, contained in this book, are not the author's, and not even Westermarck's, but those of well-known travellers and scientists. There is no reason why the author should express disgust or even disapproval. Such disapproval would not have altered the facts, and could not have made indecent or vicious practices more decent or less vicious. Dr. Havelock Ellis, a well-known scientific writer on sexual matters, whose work has also formed the object of a prosecution at this court, very properly has observed in his *Studies in the Psychology of Sex* as follows:—

“I have sought to avoid that attitude of moral superiority which is so common in the literature of this subject, and have refrained from pointing out how loathsome this phenomenon is or how hideous that. Such an attitude is as much out of place in scientific investigation as it is in judicial investigation, and may well be left to an amateur. The physician who feels nothing but disgust at the sight of disease is unlikely to bring either succour to his patients or instruction to his pupils.”

This statement might apply to sexual discussions in general, and it cannot fail to convince the right-minded that it is not within the province of the scientific man to manifest either approval or disgust at scientific facts, but simply to ascertain them, and to draw his conclusions, no matter how disagreeable these may be to his moral sense.

I will not enter into these elementary questions any further; in every other country of Europe my remarks would seem ludicrous, because everywhere else the independent position of scientific research has been acknowledged even by the uneducated.

That in the land of Darwin, Tyndall, and Spencer, I am compelled to prove the origin of certain well-known passages is in itself deplorable.

THE RECORDER: I must here say that, if the jury finds that the book is obscene as a whole or in certain parts, the question who

originally wrote the indicted passages is quite irrelevant, and testimony as to their origin cannot affect the case.

MR. MACINTOSH WOOD: With your lordship's permission, I contend that it will greatly affect the issue. If a book should be indicted as obscene which contains only extracts from Shakespeare or from the Bible, (an event which after this prosecution is quite within the realm of possibility), and, if I could prove this fact, would that not greatly influence an English jury in coming to a verdict in favour of the compiler and of the distributor of such a book? What I want to prove is that Darwin's and Westermarck's works do not contain one single indecent sentence, not one particle of obscenity, and that this book is nothing but a *resumé*, a summary of the works of the great evolutionists.

THE RECORDER: Well, go on.

MR. MACINTOSH WOOD: I will call William Newton Cecil, the author of the book first.

Mr. Cecil, you are the author of a book entitled *Sexual Selection and Human Marriage*, are you not?

MR. W. N. CECIL: Yes, I am.

MR. MACINTOSH WOOD: Have you a University degree, and are you a Member of Scientific Societies?

MR. W. N. CECIL: I am an M.A. of Oxford and a Doctor of Medicine of the Berlin University. I am a member of Philosophical and Anthropological Societies, and I am also a Fellow of the Royal Society.

MR. MACINTOSH WOOD: Will you tell his lordship and the jury of what nature are the contents of this book, and what is meant by "Sexual Selection"?

MR. W. N. CECIL: My book is mainly a recapitulation of Charles Darwin's *The Descent of Man* and *Selection in Relation to Sex*, of Westermarck's *History of Human Marriage*, and of other works which have supplemented the results of the scientific research carried out by these two authorities.

To give an easily intelligible definition of "Sexual Selection," I would say that it is a scientific term to describe the instinctive preference of animals for such individuals, of the opposite sex and of the same species, which from the standpoint of reproduction seem the fittest in health as well as in appearance.

One of the definitions read by counsel is in Darwin's own words. Here it is:—

"Sexual Selection depends on the advantage which certain individuals have over others of the same sex and species solely in respect of reproduction."

I cannot improve upon this, it is one of the indicted sentences.

MR. MACINTOSH WOOD: Then it is preposterous to ascribe to "Sexual Selection" a hidden, obscene, or indecent meaning?

MR. W. N. CECIL: Of course it is; it is ridiculous in the extreme, and the idea could only have originated in a prurient mind. I do not understand it at all.

MR. MACINTOSH WOOD: Take this book into your hand, the passages read and indicted are marked with blue pencil. Can you identify the same as to their origin?

MR. W. N. CECIL: Certainly I can, the footnotes indicate clearly the source; the first ten passages or so have been taken verbally from *The Descent of Man*, two are to be found in *The Evolution of Sex* by Professor Geddes and Thomson, one, that on Parthenogenesis, is from the *Encyclopædia Britannica*, and nearly all the others are from Westermarck's *History of Human Marriage*.

MR. MACINTOSH WOOD: The books cited by you, Dr. Cecil, are these, are they not?—(*Handing him copies of the original works, also Vol. XX. of the Encyclopædia Britannica.*)

MR. W. N. CECIL: Yes, they are.

MR. MACINTOSH WOOD: Are the descriptions of marriage rites and customs and the remarks thereon by you, or are they reports from travellers of repute, and the result of anthropological studies of other scientists?

MR. W. N. CECIL: I have only commented on the reports of

others and on Darwin's and Westermarck's observations. However, none of my comments have been included in the indictment, and the whole of it is directed against the original authors from whom I have quoted.

MR. MACINTOSH WOOD: When this case was brought before the magistrate at the Bow Street Police Court were you present, and did counsel on your behalf state in court that you, as the author of the book, would undertake the whole responsibility for its publication?

MR. W. N. CECIL: Yes, I was there, but the magistrate said they had nothing to do with the author.

MR. MACINTOSH WOOD: Did the magistrate refuse to hear you, and did he refuse to accept you as bail for the accused?

MR. W. N. CECIL: Yes, and Mr. Gilbert was remanded in custody. At another hearing the bail was fixed at £5,000, which the accused could not find. So he remained in prison.

MR. MACINTOSH WOOD: One more question, Dr. Cecil, does the passage on "Parthenogenesis" and the remarks on Hermaphroditism in this book refer at all to man or to higher animals?

MR. W. N. CECIL (*laughing*): No, parthenogenesis in mammalia has never been heard of except in that one case in the New Testament, the birth of—

THE RECORDER: Please leave the Bible out of your argument.

MR. W. N. CECIL: I beg your pardon, my lord, I should not have mentioned this case, as the evidence in the sacred book is not evidence in a scientific sense. So even that case is not authenticated.—(*Laughter in court.*)

SIR RICHARD BULLY (*cross-examining*): Dr. Cecil, I will ask you only two questions, do not make a speech, but answer simply yes or no.

Have you been in this court before?

MR. W. N. CECIL: Yes.

SIR RICHARD BULLY: In the dock or in the witness box?

MR. W. N. CECIL: In the dock.

SIR RICHARD BULLY: Do you live in a house in Kensington with a woman who is not your wife?

MR. W. N. CECIL: Yes, I do.

SIR RICHARD BULLY: And do you pay all the expenses of the household?

MR. W. N. CECIL: Certainly, it is my house, and this lady—

SIR RICHARD BULLY: That will do, Dr. Cecil, do not explain.

MR. MACINTOSH WOOD: This matter wants an explanation. Please Dr. Cecil, what was the charge when ten years ago you appeared before an Old Bailey jury?

MR. W. N. CECIL: Libel.

MR. MACINTOSH WOOD: And were you acquitted or convicted?

MR. W. N. CECIL: Acquitted.

MR. MACINTOSH WOOD: And who is the lady you are living with and who presides at your table?

MR. W. N. CECIL: My sister, I am not married.

(Sensation in court, Mr. Cecil leaves the witness box, Miss Psyche Hockey, a beautiful girl of seventeen, enters.)

MR. MACINTOSH WOOD: Miss Hockey, you are the daughter of Mrs. Hockey, Mr. Gilbert's housekeeper in Booksellers Lane; do you know Mr. Alexander Gilbert, the accused, in the dock?

PSYCHE: Yes, sir, I know him very well.

MR. MACINTOSH WOOD: Did Mr. Gilbert ever call your attention to a book with the title *Sexual Selection and Human Marriage*?

PSYCHE: No, never, but I have read the book; it was on the same shelf as Huxley's essays and Darwin's and other evolutionists, next to Herbert Spencer's volumes; it is a clever book.

MR. MACINTOSH WOOD: You seem to know all these works; do you read very much, and were you often in Mr. Gilbert's shop to read novels and other literature?

PSYCHE: Yes, very often I have been in his shop almost every day and for many hours. I have read all the books on Natural History that I could find there, and lately I have tried to study some of these zoological and biological works, but it is hard reading for an undeveloped brain like mine. I never read novels, I hate fiction, and I love truth and reality; well anyhow I prefer facts to fiction.

MR. MACINTOSH WOOD: Do you indeed, an exceptional taste for young ladies. Then I may take it that Mr. Gilbert never induced you to read or study these books, but you did it of your own free will?

PSYCHE: Certainly, of my own free will. Mr. Gilbert rather discouraged my reading anthropological works, but the more he did, the more eager I would become to study them.

MR. MACINTOSH WOOD: It is alleged by the prosecution that your morals have been corrupted by reading this book "Sexual Selection." Do you know, Miss Hockey, what morals are, and will you tell us if, from your point of view, this book has been written or published with the intention of corrupting the morals of Her Majesty's subjects?

THE RECORDER: That is a question for the jury to decide, not for Miss Hockey, but the first part of the question may be answered.

PSYCHE (*laughing*): I have read a very clever book of *Memoirs*, written by an English lady of rank, in which it is stated that "Morals" is a geographical term. That seems to me abundantly proved by Dr. Cecil's book. "Morals" in France and Italy is quite a different thing from English morals, and, besides, I think every girl or woman has her own idea of morals. I for one think that the highest morals are those which are least tainted with hypocrisy.

THE RECORDER: That is not your own opinion, Miss Hockey; you have heard that and similar sentences from the prisoner, have you not?

PSYCHE: No, sir, I have never discussed "Morals" with Mr. Gilbert, but I have read Lecky's and other books, and also Herbert Spencer's *Ethics*.

THE RECORDER: Oh, have you, and did you understand what these authors say about ethics?

PSYCHE: I understand Lecky and Westermarck, but I do not yet understand Spencer; but then there are Leslie Stephen and others who write clearly enough. English morals, I think—

THE RECORDER: We do not want a lecture on English morals, Miss Hockey; you had better answer counsel's questions.

MR. MACINTOSH WOOD: We will drop morals in general. Have you in Mr. Gilbert's shop seen any photos and engravings?

PSYCHE: Yes, heaps of them.

MR. MACINTOSH WOOD: Do you recognise the portfolio on this table, and the photographs contained therein, as belonging to Mr. Gilbert? Has he ever shown these pictures to you?

PSYCHE: I have often seen them, are they not beautiful?

MR. MACINTOSH WOOD: The prosecution says they are indecent.

PSYCHE: Then the prosecution must be an ass. I beg your pardon, gentlemen, but who dares to say that these sculptures are indecent? I never heard such a thing in my life. Make the prosecution read Lessing's *Laocoon*; nay, let them first clean their prurient mind, and then look at *Apollo*, *Perseus*, or at *Canova's Psyche*. Indecent you say? These are the purest and holiest works of art that mortal eye has ever seen.

SIR RICHARD BULLY: Miss Hockey, your language is shocking. Do you not feel shame and disgust in looking at the nude bodies of men or women, no matter what they are called by Greek or Latin names?

PSYCHE: Shame and disgust? No, sir, it is a feeling of admiration for the artists who have created these works, and also an admiration of the human form divine, which fills my mind when I look at these classic sculptures. *Apollo* in knickerbockers and a *Bacchante* in petticoats would be indecent, and fancy *Venus* in tights and frills; horrible!

Our tastes, sir, are different. I know you like the ballet girls

at the Alhambra best, but I prefer an Aphrodite of Praxiteles—perfectly nude.

SIR RICHARD BULLY (*confused*): You are very forward, Miss, and—and—

THE RECORDER: You must not insult counsel, Miss Hockey, only answer his questions.

SIR RICHARD BULLY: Who instilled these preposterous ideas into your mind? Was it not the prisoner who introduced you into the mysteries of Greek art?

PSYCHE: Mysteries you say, sir? There are no mysteries in art. Mr. Gilbert never spoke to me about art, but last year my uncle took me to Venice, Florence, and Rome. If you had ever been there, you would not ask such silly questions. You should go to the Vatican, and ask the Pope about these “mysteries” of Greek art, he has plenty of them in the museum at St. Peters.

SIR RICHARD BULLY: I give you up, Miss Hockey, as hopeless; but tell me who is that uncle of yours who took you to Italy?

PSYCHE: It is Mr. Macdonald, a real gentleman who understands art and science, and who is not a hypocrite.

SIR RICHARD BULLY: We shall not require you any more.

But I should like to put a few more questions to Mrs. Hockey.

Mrs. Hockey, will you go into the witness box for a few minutes. You heard what your daughter has told us about an uncle who took her last year to Venice, Florence, and Rome. Who is that uncle?

MRS. HOCKEY: May not Psyche leave the court before I answer this question?

THE RECORDER: Certainly. (*To Psyche*)—You may now go home, Miss Hockey, we shall not want you any more.—(*Psyche leaves the court.*)

SIR RICHARD BULLY: Well, Mrs. Hockey, who is that uncle?

MRS. HOCKEY: He is Psyche's father.

SIR RICHARD BULLY: Then Psyche is not your daughter?

MRS. HOCKEY: Oh yes, she is, but she was born many years before I married the late Mr. Hockey.

SIR RICHARD BULLY: She is an illegitimate child then?

MRS. HOCKEY: I do not know about that, sir, I do not know the difference. She is my child, and I am proud of her, and her father is too.

SIR RICHARD BULLY: Yes, yes, of course, but Psyche is born out of wedlock; whose daughter is she?

MRS. HOCKEY: I do not think it is right to ask me the name of the gentleman. Twenty years ago I was an hupper ousemaid in the service of a noble family in the country, and the father of Psyche was then a young fellow of twenty-four, now he is a lord, but Psyche knows him only as uncle Macdonald. Must I really tell his name?

THE RECORDER: No, no, Mrs. Hockey, don't. If you will write it on this piece of paper and hand it to me that will do.—(*Mrs. Hockey hands the paper to the Recorder.*)—You need not give the name to counsel, it is irrelevant, I will destroy this paper forthwith.

MRS. HOCKEY: I thought it would be hirrelevant; as Psyche does not know the name, nobody else need know it. The late Mr. Hockey, who was butler to the family, adopted Psyche, and he loved her as if she was his own child, so there can't be any difference I s'pose.

MR. MACINTOSH WOOD: Did Psyche's father take her to Italy last year?

MRS. HOCKEY: Yes he did, and he says that she is the most intelligent girl he ever saw. He will send her to a school in Paris and will make a lady of her. She is to go next week.

SIR RICHARD BULLY: Gentlemen of the jury, you have heard the defence, and the author of the incriminated book has been in the witness box to give you his explanation of the indicted passages

and his definition of "Sexual Selection." I believe I shall not be far wrong if I state that my learned friend's appeal to you has not altered your opinion of the gross indecency of these photographs of nude figures and of the obscenity of the book. Let us examine the defence, which is to the effect that the indicted sentences and passages are scientific expressions describing scientific facts, and that the photographs are reproductions of works of art. But I ask you, as true followers of our Lord Jesus Christ, can this argument stand in a Christian country? We are first of all Englishmen and Christians, and as such we abhor indecencies and obscene books in every shape and form, whether they are clothed in scientific garb or not. We have all heard the name of Darwin, and we all know that he has been a man without any religious principle; he has been the man who tried to discredit the holy books of Christendom by setting up his own history of creation, a theory that man descends from the ape, and the ape again from lower animals. Thus the whole of the biblical history of creation, according to Darwin, is a myth. This man should have been prosecuted for blasphemy, and if he lived now, and should continue his atheistic work, he would no doubt in due course fall into the clutches of the law. Yes, gentlemen, the law of blasphemy is yet on our statute book, and Darwin with his accomplices, amongst whom Huxley was the worst, were blasphemers and infidels, so that it cannot be an excuse to say that an indicted sentence has been taken verbally from the books of these men who have undermined the rock on which Christianity is built. If a man selects the most obscene passages, or the most blasphemous ones, from these pernicious books on evolution, he revives the crime committed by the original authors, and should be punished for it. I know, gentlemen, that none of you are anxious to read these works of infidels, and I have observed the disgust on your faces when I was reading the indicted parts of this book.

ELIAS SHORT: Do not speak for me, sir, I have read Darwin's works, and you saw no disgust on my face anyhow.

THE RECORDER: Please do not interrupt the learned counsel.

SIR RICHARD BULLY: So much for Darwin and his followers. True Christians ignore this man and disdain to read his works

and his attacks on Christianity. If we come to the other names mentioned as the authors of certain indicted passages, who of you has ever heard the name of Westermarck or Schopenhauer, both Germans, no doubt, and, gentlemen, you know what you have to think of books and other things made in Germany, including German philosophers.

The *Encyclopædia Britannica*, it is true, is a Christian book, and we certainly were very much surprised to hear that it contains an article on "Sex" and another on "Reproduction." How these articles got into that admirable work cannot be explained, they must have been smuggled in by some sub-editor, and I have just been informed that one of these articles has been written by a man called J. Arthur Thomson, some obscure writer, and that in the next edition these two articles will be eliminated. That accidentally one of the obscene passages hails from a standard work cannot alter the fact that every mention of the abominable and suggestive word "parthenogenesis" is obscene. A man with name Westermarck, who is said to have written most of the passages on marriage, and who has given that indecent definition of marriage, is certainly one of these foreign infidels, probably an obscure German, perhaps of French origin, and you know how lewd and libidinous these foreigners are.

MR. MACINTOSH WOOD: I beg your pardon, Mr. Westermarck is a Russian, born at Helsingfors, he is neither German nor French.

SIR RICHARD BULLY: Russian, that is just as bad. Anyhow neither that man nor the other called Schopenhauer, I am glad to say, are of English parentage, and the author of the book should have been more careful in selecting and quoting from these foreign works. Darwin and Huxley are bad enough, but these foreign atheists are infinitely worse. You have heard from the detectives who have, as a matter of duty, read the book, that they were thoroughly disgusted with its contents, and you have heard from the Rev. Whitfield that the title itself is considered by him dangerous and tempting for the young.

In Christian England we are anxious to suppress this kind of literature which sails under the flag of science, and it is my opinion

that it would have been best if Darwin's works had been suppressed from the beginning. Two years of hard labour would have kept him from his pernicious work. Now it is too late, and we must put up with the evil resulting from his teachings, but the police will have a sharp eye on all publications dealing with questions of "Sex." Sex and sexuality is at the bottom of all evil, and we must, if we want to preserve the purity of our young men and girls, never allow these obscene books to be published.

The photographs of nude men and women, found at prisoner's shop, have solely been mentioned to show you the character of the books and pictures in which the prisoner dealt with predilection. We have all been shocked and surprised to hear from a young girl of seventeen that they were beautiful. That clearly shows that the prisoner has corrupted the mind of this girl. How can the nude be beautiful? It is obscene and a temptation for the young.

A VOICE FROM THE COURT: And for old hypocrites.

THE RECORDER: Policeman, find out who has made this unseemly remark, and bring him before me.

SIR RICHARD BULLY: As Christians we have our own ideas about the beautiful, which are opposed to the very loose principles of ancient Greece and Rome, and we know better what is beautiful and what is pure than those foreigners who are so anxious to introduce French and Italian morals into our country.

THE SPIRIT OF GALILEO GALILEI:

E la Bellezza

Cosa celeste, è il grande anel che lega
 La terra al cielo, è un' armonia soave
 Che dall 'arpe invisibili ed eterne
 Dell' immenso universo emana e canta
 Inni di gloria al ciel.—Togliete il Bello
 Dalla terra, che resta? Argilla e pianto!
 La Bellezza ha magie fascinatrici
 Che sorprendon la mente e fan pensare
 Ad alte cose. Musici, poeti,
 Sofi, artisti, orator, ciascun' s'inspira
 Alle sue fonti. Il gran Tirteo sui campi
 Animava i guerrier colla lusinga
 Di quel premio gentil che la Bellezza
 Riserbava al valore. In ogni tempo

Essa ebbe templi, sacerdoti ed are
 Perchè il bello è immortal come le stelle
 Perche' il bello è la grande, è la sublime
 Poesia del creato!

SIR RICHARD BULLY (*continuing*): Our holy church and the sacred traditions of Christianity have defined for us for ever what matrimony means, and to give other definitions like those contained in this book is an outrage on our sense of decency. Procreation, gentlemen, is incidental to marriage, not an essential feature; marriage is a holy sacrament, and to make it a *sexual selection* for the sole purpose of reproduction, as this book does, is a desecration of our holiest feelings, and an attack on our purest thoughts and principles. This book, I repeat it, is written with the intent to corrupt the morals of Her Majesty's subjects, and I ask you to find the prisoner guilty, and thereby to assist the police in exterminating this kind of literature which is doubly dangerous as it is falsely styled scientific, and thus may fall into the hands of those who are legitimately anxious to increase their knowledge.

THE SPIRIT OF DARWIN:

O vice of English men and women too,
 Worst foe of what is beautiful and true,
 Showing the canker in the young green tree,
 Prophetic of the dry rot yet to be,
 O vile hypocrisy, the nation's bane,
 With thee no mind is pure, no body sane.

THE RECORDER (*summing up*): The question to be answered in this case is a very simple one, and the jury should not take any notice of side issues. All they have to decide is whether, in their honest opinion, the book as a whole or in certain parts is obscene. I cannot help thinking that the jury must come to that conclusion. If you consider the passages which have been read by counsel for the prosecution you can scarcely get any other impression than that the book is a dangerous book for the young and adults alike. The defence has tried to prove that it is a scientific work written in the interest of science and not with the intention of corrupting the morals of Her Majesty's subjects. It has been shown that the book is a summary of different works which have not been indicted, such as books by Charles Darwin,

Westermarck, Schopenhauer, and even the *Encyclopædia Britannica*. But the fact that the publishers of these books have not been prosecuted before does not prove that the contents are approved of by the conscience of the British nation. If a publisher should print extracts from the works of Rabelais or Casanova in this country he would not be safe from prosecution and conviction simply because these books have been published a hundred years ago. You must consider this case quite independently of the origin of the indicted passages, and independently of the consequences which your verdict may have for the publishers of Darwin's works and others.

Counsel for the defence has stated that the part of this book which deals with marriage customs and rites contains only anthropological facts ascertained by well-known travellers, and that the rest deals with biological problems. I hope the jury will not be deceived by these high-sounding names. The jury has nothing whatever to do with anthropology and biology, and you have only to say if the book, according to your own view and conscience, is obscene, and if its contents are such as would corrupt and debauch an innocent mind.

The defence has called the author and a young girl, Psyche Hockey, to prove that the book was not obscene, but the author has given us nothing but the sources of the indicted sentences, and these have nothing to do with the main question. Psyche Hockey, I think, should not have been called. Her opinion of this book and of the photographs will certainly not affect your decision. Although that young girl has stated that her mind has not been corrupted by reading this book, you will, from her forward manner, have perceived that the contrary is the case, and you must also remember that her morals could not have been of the purest as she is the illegitimate daughter of a nobleman, who, it seems, has introduced her into, what Sir Richard quite correctly describes as, the mysteries of Greek and Roman art, at which we Englishmen as good Christians always look with suspicion. The detectives, on the other hand, who have read the book, have both declared that they have been disgusted at its contents, and particularly at the chapters on "Sexual Selection." You have heard that one of the detectives, as a consequence of reading this book, has even broken

off his engagement to marry the girl he loves, because, as he states, he has found out that she was not the right sexual selection. Thus an immoral book can have very disastrous consequences, and you will, by your verdict, have to decide if this kind of literature will in the future be tolerated in this country, or if it is to be relegated to foreign parts, where Christian morals are neglected or unknown.
—(*The jury retires.*)

THE SPIRIT OF GOETHE :

Natur und Geist—so spricht man nicht zu Christen
Desshalb verbrennt man Atheisten,
Weil solche Dinge hoechst gefährlich sind.
Natur ist Sünde, Geist ist Teufel ;
Sie hegen zwischen sich den Zweifel,
Jhr missgestaltet Zwitterkind.

THE SPIRIT OF SCHILLER :

Finstre Ernst und trauriges Entsagen
War aus eurem heitern Dienst verbannt ;
Gluecklich sollten alle Herzen schlagen,
Denn euch war der Glückliche verwandt.
Damals war nichts heilig, als das Schoene,
Keiner Freude schämte sich der Gott,
Wo die keusch erroetheude Camoene,
Wo die Grazie gebot.

(*The jury returns into court.*)

THE CLERK OF ARRAIGNS: Gentlemen of the jury, have you agreed upon your verdict?

THE FOREMAN OF THE JURY: No, there is no hope that we ever shall agree, that there shoemaker is obstreperous, and in no time he has talked three of us over to his side.

THE RECORDER: It is much to be regretted that all this valuable time should be wasted; will you not try again?

THE FOREMAN OF THE JURY: It is of no use, my lord, we were all of your lordship's opinion, but that shoemaker—

ELIAS SHORT: Shoemaker or not, a shoemaker is as good as a family grocer, and these men are a pack of damned fools. It is my duty to—

THE RECORDER: That will do, sir, I see there is no hope

of the jury ever agreeing, and I will discharge you, gentlemen.

(The jury leaves the box.)

SIR RICHARD BULLY: We will bring this case again before another jury, and I would ask your lordship not to release the accused except on heavy bail.

THE RECORDER: Certainly we must have some guarantee that the accused will appear at a second trial.

THE PRISONER: That you will never be able to do, I shall not appear again.

THE RECORDER: I will fix the bail at five thousand pounds.

MR. MACINTOSH WOOD: My lord, that seems outrageous.

THE RECORDER: You may apply to the High Court to reduce the bail.

THE PRISONER: No, sir, I shall apply to another court.—*(The prisoner takes a vial from his pocket and swallows the contents before the warders could prevent him.)*

THE RECORDER: What have you done, unhappy man?—*(Turning white in his face.)*

THE PRISONER: What have I done? I pay with my life for your salvation from the bondage of cant and hypocrisy. I forgive you, judge and jury, and I commiserate that poor man—*(pointing to Sir Richard Bully.)*—I thank you, Mr. Macintosh, for your able defence, and I appeal to all friends of mental freedom to banish from these shores that ugliest of all human vices.

I cannot, and I will not, stand this torture any longer, my death may do some good.

I—hope—the people—of England—

(He staggers resting on the arms of the warders.)

—will not persist in vilifying—its—greatest—men.

Good-bye—good—bye.

(The dying man falls to the ground. Uproar in court.)

A DEEP VOICE: Judicial murder!

DEMOCRITUS.

JUDICIAL SCANDALS AND ERRORS

By G. Astor Singer, M.A.

P R E F A C E

Authors and artists will remember the sad fate that befell old honest Vizetelly, the publisher of Zola's great works, who was convicted and sent to prison for "publishing an indecent libel with the intent of corrupting the morals of Her Majesty's subjects." His crime consisted in editing translations of the eminent writer's novels which the civilized world, long before Vizetelly's imprisonment, had recognised as masterpieces of art.

Vizetelly has died from the effects of his imprisonment, and it must have been some satisfaction to his numerous friends to witness the reaction a few years later when his persecutors bowed before the great novelist, when the most prominent members of society, Politicians, Literary men, and even Bishops vied with each other in entertaining the illustrious author of the Rougon-Macquart series. An English judge had sent poor old Vizetelly to prison for publishing the works which to-day every educated Englishman considers as the best productions of French literary genius.

Thus in the last two decades an important change in English prudery and conventional hypocrisy has undoubtedly taken place but the judicial system of this country unfortunately allows the prudes on the prowl, who are to be found everywhere, to repeat the attack and to indulge in idiosyncrasies which in the year 1898 culminated in the prosecution of a bookseller for selling a purely scientific work, written by an author of world-wide renown and published by a respectable firm.

The undoubted sincerity and honesty of English judges combined with the apparent or real impartiality of the jury, to John Bull seems a guarantee of fair play in civil actions as well as in criminal cases. But the public is not acquainted with the intricacies of judicial procedure, it knows nothing of the preliminary work behind the scenes and is dazzled by the display exhibited at the so-called trial which in many cases is nothing but a theatrical effect, fire-

works which frequently conceal a great wrong and leave the strongest as the victor in an unfair combat.

As the English judge, even if prejudiced, possesses a high sense of duty, great experience as a lawyer and a certain amount of shrewdness, and as, on the other hand, the jury as a rule is known to follow the direction of the judge, the work to be done by the representatives of the parties to an action or prosecution really consists in the attempt to deceive the judge, and he who manages this deception best will be the victor whether the right be on his side or not.

Therefore a very great part of legal work is of a doubtful nature, akin to trickery, which is facilitated by the peculiar semi-official capacity of the solicitor and the absolutely irresponsible position of counsel.

It is natural that amongst the three or four thousand solicitors in the Metropolis who are the moving spirits in all judicial actions, many are not of an irreproachable character. The numerous convictions of dishonest lawyers, and the prosecution of many more by the Incorporated Law Society prove that in England a much greater proportion of Solicitors indulge in doubtful practices than in any other country with the exception perhaps of the United States.

The peculiar position of the Solicitor as a mediator between client and counsel partly accounts for this abnormal condition and an antiquated system greatly facilitates underground and dishonest practices.

It is affirmed that in England in one single day more perjury is committed than in the whole of Europe in a year; but this, if true, may be to a great extent due to the pernicious system of admitting plaintiff and defendant to swear affidavits in their own cause at every stage of a pending action. This practice is absolutely unknown in continental countries. Perjury certainly has something to do with the perversion of justice, but a greater danger arises from the peculiar relation between Client, Solicitor, Counsel, and Judge.

In the attempt of a Solicitor to fleece his client and to obtain the largest possible amount, for real or imaginary services, the client's interest is often ignored to an incredible extent, especially in cases where the greed of the lawyer prevents him from paying over

counsel's fees (paid to him by his client) which inevitably causes the collapse of a case or the conviction in a criminal prosecution.

The principal object of *Judicial Scandals and Errors* will be an impartial inquiry into dishonest manipulations in civil and criminal actions which have led to a gross perversion of justice. An examination in the judicial system, wherever it seems to be at fault, will follow.

The amount of wrong done in criminal courts, the conviction of the innocent, if poor, and the escape of the guilty, if wealthy, is alarmingly large, and every endeavour to lessen the evil must be welcome.

The attack made by unknown persons hiding behind the Commissioner of Police on a scientific work of undoubted merit and the suppression of this publication by a compromise with a London bookseller, although apparently unimportant in itself, is typical in its detail, and this circumstance justifies my submitting this case to the judgment of a wider circle.

GEORGE ASTOR SINGER, M.A.

PARIS, *December, 1898.*

JUDICIAL SCANDALS AND ERRORS.

LAWYERS know or feel instinctively that wherever in criminal cases a compromise has been effected between the prosecution and the defence some coin of the realm has passed. The illegality of the act is passed over silently by all the parties concerned in the transaction.

That such compromises are more frequent in England, where nearly all the prosecutions are of a more or less private character, than in France, Germany, Austria, or Italy, where invariably the public prosecutor acts for the crown, and in his official position is inaccessible to bribes and proposals for an amicable settlement, is only the natural and inevitable result of our procedure in criminal cases.

Many mysterious transactions, which amount to blackmail and extortion, would come to light if the parties to the deal were not compelled to silence in their own interest.

A compromise in cases where the police authorities or the Government appear as prosecutors, absolutely unknown on the continent, is comparatively rare even in this country, and the legal authorities strongly disapprove of the pernicious system of inducing an accomplice to turn *Queen's Evidence*. Quite apart from the indignity and immorality hidden in these transactions they carry the danger that the principal offender to save his own skin gives false evidence and that justice is perverted.

Much more dangerous than the admission of Bill Sykes to tender queen's evidence is a practice recently adopted by the prosecution in the Bedborough case, which promised to become a test case of the highest importance, but which collapsed in the end in consequence of a compromise effected between defence and prosecution on a perfectly new basis. The accused himself and his solicitor obtained by the transaction a considerable benefit, while the Commissioners of Police, the prosecutors in this remarkable case, extri-

cated themselves from a difficult position by an act which under all circumstances must be subject to severe criticism.

The old system of making the accused turn *Queen's Evidence*, and of compelling him to state on oath in a public court that he was not the principal offender, bad enough as it is, was abandoned in this case, and the culprit was allowed to make a secret statement to that effect at Scotland Yard to a detective.

On this private statement which naturally made Mr. G. B. Higgs (this is the real name of George Bedborough) appear as innocent as the new born babe, the prosecution based the speech which resulted in the suppression of a highly important case and in the slander of Dr. Havelock Ellis, a scientific author of world-wide renown, as also in the wanton persecution of Dr. R. de Villiers, the well-known Editor of the *University Magazine*.

It will be necessary to examine the facts surrounding this extraordinary case most minutely so as to understand the real nature of the deal which illustrates the dark side of our judicial system better than any case which has come to my knowledge in recent years.

That I am personally interested in this case, having provided the larger part of the amount required for the defence of the accused, gives me access to letters and documents which prove beyond doubt that, as in most similar cases, sordid considerations have caused this perversion of justice, which certainly amounts to a judicial scandal if we consider the consequences of the transaction.

THE POLICE AND THE PRESS.

On May 31st, 1898, Mr. G. B. Higgs, who, under the name of George Bedborough, carried on the business of a publisher and bookseller in London, was arrested by the police for "publishing an obscene libel with the intention of corrupting the morals of Her Majesty's subjects."

The book on which this charge was based was Dr. Havelock Ellis's first volume of his great work "Studies in the Psychology of Sex." The accused had nothing to do with the production of this book, neither as author nor as printer or publisher. He had simply sold copies of the same to disguised detectives. The police authorities were fully aware that the author was a well-known man

of science, that the printer was Mr. A. Bonner of Tooks Court, and that the publishers were the University Press, as these names appeared on the book in bold type.

Dr. Havelock Ellis appeared in person at the first and second hearing of the charge before the magistrate, declaring through his counsel that he was prepared to undertake the whole responsibility for the incriminated publication.

The publishers were also represented at the police-court proceedings by Messrs. C. O. Humphreys and Son, the well-known solicitors.

For some reason or other Dr. Havelock Ellis's offer did not suit the prosecution nor Sir John Bridge the magistrate, who stated that not the writing or publishing of the book in question but the sale to the detectives, *i.e.* the indiscriminate sale alleged to have been practised by Mr. Bedborough, constituted the offence.

Articles contained in the *Adult*, a magazine owned and edited by the accused, were included in the charge, and Mr. Bedborough was committed for trial.

It was soon apparent that Dr. Havelock Ellis's work was not the real, or at least not the principal, object of this prosecution, but that it was aimed at the University Press Limited, which had published a number of philosophical, social, and theological works. The University Press also owned the *University Magazine and Free Review*, a periodical devoted to the free discussion of political, social, and religious subjects.

Bedborough, besides his own publications, sold the books and magazines published by the University Press in the same way as other London booksellers and on the same terms. But his connection with the Legitimation League, a society founded for the purpose of securing equal rights for legitimate and illegitimate children, gave the prosecution a welcome opportunity to cast a slur upon a firm of respectable publishers, who were never in any way connected with this society, or with any of Mr. Bedborough's undertakings.

It cannot be ascertained who hides behind the Commissioners of Police, who appeared as nominal prosecutors in these proceedings, but from the facts hereafter explained the reader will infer that the police have acted throughout on higher orders.

The first suspicion that Dr. Havelock Ellis's work formed only the pretext for an unheard of persecution arose in the minds of the defence through the fact that the police in raiding Mr. Bedborough's premises seized all the books lately published by the University Press, particularly

The Free Review, edited by G. Astor Singer.

The University Magazine, edited by Dr. R. de Villiers.

Pseudo-Philosophy at the End of the Nineteenth Century, by Hugh Mortimer Cecil.

The Dynamics of Religion, an essay in English Culture History, by M. W. Wiseman.

The Saxon and the Celt, by John M. Robertson.

Montaigne and Shakspeare, by John M. Robertson.

The Blight of Respectability, by Geoffrey Mortimer.

None of these publications did ever form or could ever have been the object of a direct prosecution, yet the police seized these works indiscriminately, and it became evident from this and subsequent proceedings that English prejudice and prudery were to be worked for what they were worth for the purpose of suppressing publications which were in no way connected with the alleged offence "of publishing an obscene libel with the intention of corrupting the morals of Her Majesty's subjects."

This secret intention is proved beyond doubt by the speech of the counsel for the prosecution at the trial, which I will fully examine in its true light hereafter.

It must be of interest to the lawyer as well as to the student of politics to learn how successfully this plan to suppress a well-known magazine and to send its editor into exile has been carried out by those entrusted with the task.

STUDIES IN THE PSYCHOLOGY OF SEX.

The first volume of Dr. Havelock Ellis's work *Studies in the Psychology of Sex* was published by the University Press Limited in February, 1898. It was the first and only work on the vital question of sex published by this firm, whose managing director and principal shareholder I am. As such I share the responsibility for its publication with the author.

Dr. R. de Villiers, the Editor of the *University Magazine*, in 1897 called my attention to the German edition of this volume,

and to the general praise which the same had found in scientific circles on the Continent and in the United States of America. The name of the illustrious author of many scientific works however would alone have been a guarantee for me that the book was of the highest and noblest aim, and that it was written in the true scientific spirit which characterises Dr. Havelock Ellis's well-known writings.

Indeed my decision to publish this book needs no justification before the scientific world. I submitted the M.S. to medical men and to psychologists, who unanimously declared it to be of the greatest importance, not only for the medical profession, but also for teachers, lawyers, clergymen, and students of psychological problems.

So I decided upon its publication, and the book was printed by Mr. A. Bonner.

As however it was not desirable that this book should come into the hands of inexperienced youth I gave instructions that all copies supplied to booksellers, including, of course, those supplied by the University Press to Mr. Bedborough, should bear a label with the inscription :

"This book is a scientific work intended for Medical Men, Lawyers, and Teachers.
It should not be placed into the hands of the general public."

To Mr. Bedborough-Higgs the book was supplied in the usual way, and the only explanation why the authorities selected this man out of many other booksellers in London who sold the book is that he was connected with, or rather that he was the moving spirit in, a society which advocated "Freedom in Sexual Relationship," a Free-Love Society, of which he was the head and soul. Another reason may have been that Bedborough-Higgs was without means, and thus, as the police was led to believe, would be unable to defend himself against a powerful official prosecution. Anyhow, as subsequent events proved, the police authorities were right in their calculation that poor Bedborough-Higgs was not made of a material to withstand the attack. He collapsed ignominiously, and to the joy of the prosecution cut a very sorry figure in the subsequent proceedings.

A SOLICITOR'S CHANCE.

The most interesting part of the comedy is the association of the

accused with a London solicitor for the purpose of extracting money from the public for his defence which this gentleman never intended to carry through, as proved subsequently by counsel for the prosecution in his speech before the Recorder of London.

A few days after Bedborough's arrest I received in New York a cable from Dr. de Villiers, the Editor of the *University Magazine*, requesting me to guarantee at least part of the expenses for the defence of the accused, and particularly the payment of counsel's fees. I consented, and part of the money was paid to Mr. Wyatt Digby, the solicitor selected by Mr. Bedborough for his defence.

"A storm of indignation," Dr. de Villiers wrote, "has broken over the country, and especially over the scientific world, when the new practice of prosecuting a bookseller for selling a scientific work became known through the newspapers. A protest was raised by medical and anthropological societies against this wanton attack on an author's reputation. We must have funds for the defence, as Bedborough is a poor devil, and you should guarantee the payment of counsel's fees and solicitor's costs to a limited amount, while a Free Press Defence Committee is formed to provide further funds."

Unacquainted with the bye-ways of the laws in England and the tricks of London solicitors, I was unaware that by providing these funds I practically caused the insult offered to the author by the prosecution at the trial, and, in fact, the collapse of the defence, which it was intended to place on a sound basis by engaging a leading counsel to defend the accused as well as author and publisher.

HOW THE POLICE PROCEEDED.

A Scotland Yard detective, Mr. Sweeney, one of those innocent souls, whose morals are so easily corrupted, was sent into the lion's den to prove that the secretary of the Legitimation League sold books *with intent to corrupt the morals of Her Majesty's subjects*.

He represented himself as a friend of L. Harman, the president of the Legitimation League, and showed himself enthusiastic for the cause of securing equal rights for legitimate and illegitimate children. Mr. Sweeney accepted an invitation to the meeting and annual dinner of the League, at which he was present listening to the speeches of other enthusiasts. It seems that these proceedings

were rather harmless, anyhow the detective's morals had not been corrupted then and there, so that to attain the object in view he cultivated the secretary's friendship with the view of obtaining better evidence of his pernicious designs on English morality.

Amongst the many books sold by Mr. Bedborough he found one with an attractive and yet mysterious title: "*Studies in the Psychology of Sex*," by Dr. Havelock Ellis. Forthwith he acquired a copy, and to prove the sale and the mercenary corruption of his morals, he paid for it. As the detective is a grown-up man, and as his innocence was concealed, Mr. Bedborough knowing him only as an enthusiastic follower of the Legitimation League, of course he obtained a copy of this scientific work without any difficulty. After corrupting his morals with it he took it straight to the Commissioner of Police, whose morals no doubt were likewise corrupted, so that the inevitable consequence was that Mr. Sweeney received instructions to swear an information at the Bow Street Police Court, which in due course led to the arrest of Mr. Bedborough, and to the seizure of all the dangerous books in his possession. The magistrate, shocked by the accused's depravity as described in Mr. Sweeney's information, refused to admit the prisoner to bail, but at a later application fixed it at £1,000.

Thus for the English public the gravity of the offence was established forthwith and beforehand.

At the conclusion of the proceedings before the magistrate, Mr. Ivory, representing Mr. Bedborough, and seeing that Sir John Bridge had made up his mind to send the case for trial, said that he could not hope to convert the learned magistrate from the view to which he had given expression, and would only say that the accused was prepared to contend that the works referred to in the case were not obscene.

"I shall be prepared to maintain that this is not an obscene publication, but a scientific work if it be approached—as it is intended it should be—by persons of scientific mind and a desire to learn. (Mr. Ivory went on to quote the case of '*Reg. v. Hickling*,' with the object of showing that the question of obscenity of a work depended upon the method of its publication. Many scientific works would be obscene if they were published broadcast at the corner of the street; but they were not obscene if they were only circulated among scientific men.) The price and method of the publication of the '*Sexual Inversion*' showed that that was the intention in this case. The

practices mentioned in the book were not advocated by the author, as the prosecution had stated, and at the proper time he would challenge his learned friend to prove what he had stated on this point. In conclusion Mr. Ivory read the last paragraph in the book as follows:—‘Here we may leave the question of Sexual Inversion. In dealing with it I have sought to avoid that attitude of moral superiority which is so common in the literature of this subject, and have refrained from pointing out how loathsome this phenomenon is, and how hideous. Such an attitude is as much out of place in scientific investigation as it is in judicial investigation, and may well be left to the amateur. The physician who feels anything of disgust at the sight of disease is unlikely to bring either succour to his patients or instruction to his pupils.’”

Sir John Bridge, when committing the accused for trial, had all the information concerning the author’s, printer’s, and publisher’s part in this publication before him, yet no action was taken against either, and the indictment, which included certain articles in the *Adult*, was practically confined to the way of selling the incriminated book and magazine.

A GRATUITOUS ADVERTISEMENT.

As the demand for Dr. Havelock Ellis’s book increased very considerably through the advertisement given to it by the police-court proceedings, and as I did not wish this work to fall into the hands of the young and of persons for whom it was never intended, I ordered the sale to be stopped at once, and the author consented to this step. Amongst those anxious to acquire the book were many students at Oxford and Cambridge, boys at Eton, Rugby, and Harrow, even girls at boarding schools, all of whom would never have heard of its existence if the great publicity given to the police-court proceedings by the entire press in Great Britain had not called their attention to this medical work.

Not one single copy however was supplied to serve this morbid curiosity, and the Editor of the *University Magazine* perceiving the danger of spurious reprints of the work being published in Paris and New York to satisfy the great demand created by the police addressed the following letter to the Home Secretary:—

“SIR,—May I call your attention to a grave error of judgment committed by the Commissioners of Police in the prosecution of a London Publisher and Bookseller for selling a scientific work entitled ‘Studies in the Psychology of Sex,’ by Havelock Ellis, the eminent author of many valuable works of science and editor of the Contemporary Science series (Walter Scott).

“I am confident that you will not underrate the very serious consequences

of this prosecution if you will consider the following facts with which the undersigned, having in 1897 advised the University Press to publish this work, is fully acquainted.

“(1) During the year 1897 and up to the arrest of Mr. Bedborough, Dr. Havelock Ellis’s work which follows in the footsteps of Professor von Krafft-Ebing’s well known book ‘Psychopathia Sexualis’ has been demanded and supplied exclusively to the medical profession, to lawyers, teachers, and clergymen, and to booksellers. The publishers have taken every possible precaution that the book should not be sold to the general public, and all copies sold to booksellers bore a label with the following inscription:—

“‘This book is a scientific work intended for medical men, lawyers, and teachers.

“‘It should not be placed into the hands of the general public.’

“It may thus be supposed that the trade in general has supplied this book only at the request of professional men for whom the work is of paramount importance.

“The publishers have abstained from advertising the book in any newspaper, and review copies have been sent only to medical journals. The price was that of other scientific works of similar dimension.

“(2) Since the commencement of the proceedings at the Bow Street Police Court, the wise precautions of the publishers however have been frustrated by the extensive advertisement caused by these proceedings all over Great Britain and America, so that the publishers as well as booksellers in all parts of the English speaking world are inundated with orders, not only from adults but also from boys at the public schools, from students at Universities, and from persons for whom the book has never been intended.

“The publishers, following my advice, have forthwith withdrawn the book from sale, but they are unable to stop the sale of copies which are in the hands of booksellers all over the country.

“It will thus appear that the Commissioners of Police who charge a bookseller in London with selling the book to detectives *with intent to corrupt the morals of Her Majesty’s subjects*, are practically guilty of the very offence of which they accuse Mr. Bedborough, as by their ill-advised act the book has been played into the hands of persons who otherwise would never have known of its existence.

The almost inevitable consequences of the withdrawal of the book by the University Press, simultaneous with the great demand created by the police, will be the spurious re-publication of this work in Paris and New York; and the public schools at Eton, Harrow, etc., will be flooded with circulars by unscrupulous foreign publishers, who will profit by the gratuitous advertisement given by the Commissioners of Police to this publication.

“This advertisement has increased with every hearing at the police court, and will find its climax at the trial.

“If it should be in your power to arrest the progress of the mischievous practice of the police of making scientific works of this description popular, you could do much to prevent the corruption of public morals.

“Should on the other hand this newly initiated practice of prosecuting

booksellers for selling medical works dealing with obstetrics or sexual disorders be continued in the future, the young will obtain access to many books the existence of which was necessarily unknown to them until now.

"The public in general and the medical profession in particular will be grateful to you if you will oppose such tendency in the future, if you should not have the power to interfere in the present grievous blunder of the police.

"I have sent a copy of this letter to the Commissioners of Police and to the Press.

"I am, Sir,

"Your obedient Servant,

"R. DE VILLIERS."

The speech for the prosecution by Mr. Matthews at the trial seems to point to the possibility that this honest letter to the Home Secretary must have raised the ire of the parties responsible for the prosecution, and must have induced them to apply to the magistrate for a warrant for the arrest of Dr. de Villiers, who had actually nothing whatever to do with the publishing of the incriminated book.

Innumerable letters of sympathy were received by the author of the book as well as by the Editor of the *University Magazine*, and a Free Press Defence Committee was formed by Mr. Henry Seymour. Many eminent authorities and literary men joined this Committee, many who were not at all in sympathy with Mr. Bedborough's views on Free Love or Legitimation, but who felt the necessity to protect the press from arbitrary interference by the police, and who abhorred the newly-established press-censorship. The Free Press Defence Committee issued the following circular:—

"FREE PRESS DEFENCE COMMITTEE.

"THE BEDBOROUGH PROSECUTION.

"An appeal is hereby made to all lovers of free inquiry, free discussion, and free publicity. The following are the facts which necessitate this appeal:—

"Mr. George Bedborough is being prosecuted by the police for selling a book entitled *Sexual Inversion*, written by Dr. Havelock Ellis, whose name is widely and honorably known in science and literature. This volume is the first of a projected series on 'The Psychology of Sex,' a subject which is investigated freely on the Continent by medical and sociological experts,

who are continuing the researches initiated by the famous criminologist, Lombroso. It is written in a spirit of scientific detachment. It throws light upon certain abnormalities, with a view to their rectification; it is unpleasant in the same way that a treatise on cancer is unpleasant. But it is surely maintainable—and this may be said without prejudice to whatever is *sub judice*—that to call such a book obscene is an abuse of language, to stop its circulation amongst adult students is a gross violation of the freedom of the press, and to imprison a man for selling it to an adult customer is an outrage on the primary rights of free citizenship. Since the commencement of the prosecution other charges have been brought against Mr. Bedborough, founded upon publications seized by the police in raiding his rooms at the time of his arrest. These publications were all advertised and sold openly, and there was no need to resort to such methods of incrimination. They are copies of the *Adult*, the monthly organ of the Legitimation League, an organisation which exists for the purpose of ventilating sexual problems, particularly in relation to marriage and the status of women; and also copies of various pamphlets issued under the auspices of that body.

“It should be mentioned that Mr. Bedborough is not arraigned for any writings of his own. He is called upon to bear the burden of the defence of the writings of others, with whom he is not necessarily in agreement. Neither the writers of the pamphlets and periodicals, nor the author, printer, or publishers of the book in question are included in the indictment. He alone is singled out as the victim of this ill-advised, and perhaps malicious prosecution.

“The Free Press Defence Committee has been formed in order to resist this police attack upon liberty. Its members belong to many different schools of opinion. They are not in any way concerned with the particular views entertained by Mr. Bedborough, or set forth in the writings which form the ground of the prosecution. The present is neither the time nor the occasion to express either agreement or dissent. The one thing to be done is to defend the liberty of *all* opinions. It is always the bigots who choose the point of attack, and it is there that the friends of freedom must rally.

“The most important thing is that Mr. Bedborough should be properly defended, and the Free Press Defence Committee is pledged to obtain for him (if possible) the requisite support. A fair amount has already been subscribed, but far more will be required, especially as the case will probably be taken to the Court of Queen’s Bench. It is hoped, therefore, that subscriptions will be forwarded without delay to the Honorary Treasurer, Mrs. Gladys Dawson, Bedford Hotel, Covent Garden, London, W.C.

“The Committee appeal most earnestly to all who value the freedom of the press to lend their aid in this emergency. It is not enough to condemn the prosecution as unwise. This alone will not protect the principle which is assailed, nor save the living victim from the sufferings and indignities of imprisonment. The prosecution must be actively resisted. This is what the Committee calls upon every lover of liberty to assist in doing. A strong, united stand against oppression at this moment will strengthen the securities of freedom in the future.”

Amongst the great number of gentlemen and ladies who joined the Committee I may name the following:—

Grant Allen.	George Moore.
T. B. Askew.	F. H. Perry-Coste.
E. Belfort Bax.	William Platt.
Robert Braithwaite.	Frank Todmore.
Robert Buchanan.	H. Quelch.
Mona Caird.	John M. Robertson.
Edward Carpenter.	W. Stewart Ross.
Joseph Collinson.	Henry S. Salt.
Walter Crane.	William Sharpe.
A. F. Cross.	George Bernard Shaw.
Thomas du Deney.	George Standing.
Mrs. Despard.	Edward Temple.
Dr. H. Densmore.	W. M. Thompson.
G. W. Foote.	John Trevor.
Frank Harris.	Charles Watts.
George Jacob Holyoake.	Dr. T. M. Watt.
Geoffrey Mortimer.	

The English Press, with the exception of the reptile and mug-wump section, expressed its view with much frankness against the police prosecution, and aided thereby the work of the Committee.

A few of the numerous articles on the subject which appeared after the committal of the accused will be found in Appendix I. At many public meetings held in the Metropolis the new system of suppressing scientific works initiated by the Commissioners of the Police was denounced, and probably the party who instigated this prosecution became doubtful as to its success, but yet it could rely on the stupidity of a prejudiced Old Bailey Jury as the application to remove the case to the High Court and a special jury had been refused.

A MYSTERIOUS LETTER.

A strange thing happened after the decision of the magistrate to send the case for trial had been given.

A number of booksellers in London and in the principal provincial towns, mostly customers of the University Press Limited, received the following communication by post:—

“PRIVATE AND CONFIDENTIAL.

“Criminal Investigation Department,

“Scotland Yard, W.C.

“SIR,—The arrest and committal of a London bookseller should serve you as a warning.

“Take notice that the police will arrest and prosecute any bookseller who in the future should sell the atheistic and abominable publications of the University Press.

“A CHRISTIAN.”

It is, of course, certain that these letters did not emanate from the police or from Scotland Yard, nor could the same have been sent with the knowledge or approval of the Scotland Yard authorities, but it is more than probable that some person or society connected with the prosecution or interested in the proceedings had written them with the view of frightening booksellers. This ruse succeeded admirably because many of the more timid booksellers “to avoid arrest and prosecution” refused to sell the *University Magazine* any further, and in consequence of this boycott the monthly issue of this publication had to be suspended.

It will surprise my readers that the tenor of Mr. Matthews’ speech before the Recorder is somewhat similar to this mysterious message, in so far as the University Press is named as the real offender, so that we must ask whether this crusade was really directed against Mr. Bedborough or against the University Press, with which Mr. Bedborough was not connected any more than any other bookseller in London.

AFTER THE COMMITTAL.

The committal of Mr. Bedborough took place on June 21st, and the time which elapsed since then to the day of the mock trial on October 31st was used by the Free Press Defence Committee to collect funds for the defence of the accused, and in this endeavour its able secretary, who devoted much of his time and energy to this task, was fairly successful.

But, alas! in the meantime Mr. Bedborough and his shrewd solicitor had discovered that the cheapest and most profitable way out of the difficulty would be to come to terms with the Commissioners of Police, and to appropriate the funds.

Although it is not likely that Mr. Wyatt Digby divided the spoil with Mr. Bedborough, there is not the least doubt that the latter played into his hands by concealing his arrangement with the prosecution from the Committee and from myself, and thereby caused the amount of about £400 to be passed into the possession of the solicitors.

Mr. Matthews's speech describes best and in clear language what happened while Mr. Wyatt Digby used pressure to obtain as much money as possible from the Committee, and while by an unworthy trick the same gentleman extracted a further sum of £150 from my wife for the purpose of paying counsel's fees for his client's defence.

A PENITENT SINNER.

Mr. Bedborough, according to counsel's statement, after his committal, went to Scotland Yard, and by the authorities there was allowed to make a statement to the effect that he was only a very subordinate sub-agent of the Editor of the *University Magazine*, Dr. R. de Villiers, and that this gentleman was the real culprit. He offered to plead guilty to three counts in the indictment as a matter of form if the prosecution would give him a guarantee that he would not be sent to prison.

The Commissioners of Police, if they were the real prosecutors in this prosecution, must have had grave doubts as to the success of the impending trial, or there must have been some other reasons that they decided to accept the bargain proposed by Mr. Bedborough.

It may be that they were incensed by Dr. de Villiers's letter to the Home Secretary, and felt a kind of satisfaction in substituting that gentleman for the wretched prisoner who made this proposal.

As matters stood the proposed settlement would amount to a victory for the police, a clever speech by counsel would make it appear a real triumph over these wicked publishers, and smaller obstacles could easily be overcome.

Indeed such an arrangement, if not quite honest and above board, seemed satisfactory to all parties immediately concerned, to the prosecution, to the accused, and last, not least, to the solicitor for the defence, Mr. Wyatt Digby, who, without paying counsel's fees, could easily manage to retain the large amount received for the defence.

Not less interesting than the carrying out of the arrangement arrived at between the parties is the story of Mr. Wyatt Digby's successful endeavour to get hold of as much money for the defence of his client as could possibly be obtained under the circumstances. Part of his scheme was to keep the arrangement secret until a few

days before the trial, and in the meantime to secure the largest possible amount from the two sources which were open to him.

The following letter will show how eager Mr. Wyatt Digby was to secure the amount of my guarantee, and how anxious to obtain adjournments of the trial to gain time for the purpose of collecting further funds from the Free Press Defence Committee:—

“Wyatt Digby and Co.

“5 and 6, Clements Inn, Strand,
“London, W.C.,
“July 14th, 1898.

“Reg. v. Bedborough.

“DEAR SIRS,—It is necessary now to make some arrangements with regard to ‘counsel’s fees herein.

“We fully appreciate the contents of your former letter as to your guarantee, but shall be glad if you will give us a call at your earliest convenience so that we may discuss the matter for future arrangements.

“Yours faithfully,
“WYATT DIGBY AND CO.”

“The University Press Limited.”

All this time (in July) it was already arranged between the prosecution and defence that the case should not be taken until after the vacation at the end of October, 1898. Yet on July 21st Mr. Wyatt Digby addressed the following letter to the Editor of the *University Magazine*:—

“Wyatt Digby and Co.

“5 and 6, Clements Inn, Strand,
“July 14th, 1898.

“DEAR SIR,—Referring to your letter of the 19th and ours of yesterday we presume that you asked Mr. Singer to cable the money over, as, if it is only sent by post, it will not arrive in time for the trial, and of course it ought to be here not later than Friday, or at the very latest Saturday morning. Of course we do not wish to press the matter, but we think it right to point this out. We are doing everything possible in the case, and shall leave no stone unturned to secure success, and our only anxiety is that we may be prevented from taking the necessary steps for want of funds.

“If it is not clear that the money will be cabled, will you be good enough to send a further cable asking for this to be done.

“We are,
“Yours faithfully,
“WYATT DIGBY AND CO.”

“R. de Villiers,

“University Press, Watford.”

I suspected these gentlemen, and instructed my representative

not to pay the amount until our own solicitors, Mr. C. O. Humphreys and Son, should advise us to do so.

On August 10th the following communication was received from Mr. Wyatt Digby:—

“Wyatt Digby and Co.

“5 and 6, Clements Inn, Strand,
“London, W.C.

“DEAR SIRs,—It is necessary that we should be at once put in funds for the necessary expenses which have been incurred and for the further expenses which have now to be incurred, and it is absolutely necessary that we should have £150 at once for the purpose of preparing for the trial as there is no time to be lost.

“Hoping to hear from you with a cheque by return.

“Yours faithfully,
“WYATT DIGBY AND Co.”

Mr. Digby must have been afraid that the terms of the settlement proposed by Mr. Bedborough to the police might become known before he would be able to secure all the cash available from the two sources, and on August 31st he wrote the following epistle:—

“Wyatt Digby and Co.

“5 and 6, Clements Inn, Strand,
“London, W.C.,
“August 31st, 1898.

“Regina v. Bedborough.

“DEAR SIR,—We are surprised that we have not received any reply to our letter of the 9th inst. The Committee have now paid us the sum of £50, which, we understand, is all the money they have in hand, and they have promised a further £50 on the day of the trial (which will be personally subscribed by them as sufficient funds have not been received from the public). They have also guaranteed the sum of £50 to be paid at some later date which at present cannot be fixed, and will also be obtained by subscription among themselves. This makes in all the sum of £150, which is the total amount they are in a position to provide now or at any future time. We have previously received the sum of £140, namely, £50 from yourself and £90 from the Committee. This amount has been expended in regard to expenses prior to trial, including counsel's fees before the magistrate, costs of applications for *certiorari*, and other costs.

“As to the counsel's fees on trial it has been arranged to brief Mr. Avory and Mr. Rose-Innes. Their fees on the trial, assuming the case to last three days (which is the least time it can be reasonably expected to take), will amount to 110 guineas and 68 guineas respectively, making a total of about 180 guineas.

“Of course, the case may last longer than three days, in fact it is not

unlikely that it will occupy as long as a week, and in this case further fees will have to be paid beyond the 180 guineas. Counsel's fees will have to be paid when the briefs are delivered.

"In addition to the counsel's fees, of course there are payments to witnesses, which will be heavy, and there are solicitor's charges, and other expenses which must necessarily amount to a very considerable sum. The amount which we have received, and are to receive from the Committee, will not be sufficient for the purpose of providing the witnesses' fees and expenses and our costs; therefore it is necessary to look to you under your guarantee for the amount of counsel's fees, and you will see that the £150, the balance guaranteed by you, is not sufficient for this purpose.

"However we have now agreed with the Committee that we will carry the matter through to a conclusion and do everything possible to ensure a successful defence on their carrying out their arrangements as above mentioned, conditionally on your providing us with the £150 toward counsel's fees a sufficient time before the trial. If we receive this, counsel will be briefed, and the matter will go to trial, but we are compelled to say that we cannot deliver the briefs until we get your cheque for £150. At the very latest the briefs must be delivered to counsel by September 6th if they are to have sufficient time to get up the case. We must therefore rely on you to send us the cheque as promised by that date.

"We are sure that you will understand that we have no desire to put any undue pressure or to require payment of more than is necessary, but it is essential that there should be no hitch in regard to the matter on the eve of the trial. If you would prefer we should be quite satisfied if you would send the amount to Mr. Seymour, as secretary to the Committee, or to Mr. Bedborough, or to both jointly, to ensure the matter being properly carried through. Of course, any payment by you to the Committee on this account will be a performance of your guarantee to us.

"Yours faithfully,

"WYATT DIGBY AND CO."

From this last letter it will be seen that Mr. Wyatt Digby, while pressing for the payment of £150, had already obtained all the money he could get from the Free Press Defence Committee.

I was in New York at that time. On September 9th our solicitors, Messrs. C. O. Humphreys and Son, informed us by wire that the case would not come on for trial until the end of October. Mr. Wyatt Digby, the defendant's own solicitor, must have known this fact as well as Mr. Humphreys. Yet on September 12th he induced the foreman at our printing works to try desperately to obtain the amount from my wife, hinting at the same time that the telegram sent by our own solicitor was a mistake or a trick on the part of the prosecution.

Mrs. Singer was intimidated by a statement that the case would

be heard the next day, and that a cheque for £150 was immediately and urgently required to pay counsel's fees. The amount was paid under pressure and without my knowledge. From the moment when Mr. Wyatt Digby had received all the money available the scene suddenly changed.

All became quiet while the necessary preparations for the compromise were carried out.

The solicitor's sole interest lay in the retention of the amounts received from the Free Press Defence Committee and from Mrs. Singer with the specific stipulation that it should be handed over to counsel for Mr. Bedborough's defence.

Mr. Avory never received a penny of this money. The pre-arranged plea of "Guilty" made this payment superfluous. The able counsel who had in the preliminary stage done all in his power, and who was fully acquainted with the whole case, was deprived of his fee, and, of course, did not appear.

THE DETAILS OF A COMPROMISE.

The subsequent proceedings, as will be shown hereafter, constitute one of the worst judicial scandals ever witnessed in England in a court of law during this century.

A short introduction seems necessary to explain the particulars of the compromise, as stated by the accused himself a few days before the case was heard before the Recorder at the Central Criminal Court.

On October 20th Dr. de Villiers, having been informed by Dr. Havelock Ellis of the rumour that a compromise between prosecution and defence had been effected, met the defendant, Mr. Higgs-Bedborough, and the following discussion took place:—

THE EDITOR OF THE UNIVERSITY MAGAZINE: Well, Mr. Bedborough, I hear a compromise has been arrived at with the prosecution, is that true?

BEDBOROUGH: Yes, everything is settled. You know the Commissioners of Police are afraid of losing this game, they think we are awfully strong, and so they have proposed a settlement.

THE EDITOR: And on what terms?

BEDBOROUGH: I am to plead guilty as a matter of form, and I will only be bound over in my own recognizances. I shall receive no punishment whatever.

THE EDITOR: A nice job. Plead guilty to what?

BEDBOROUGH: To three counts out of the eleven of the indictment. They

will drop the others, and Mr. Matthews, the prosecuting counsel, himself will propose my acquittal, or what practically amounts to the same thing.

THE EDITOR: For God's sake, Mr. Bedborough, do you not feel your responsibility towards the author of the book and towards the Free Press Defence Committee? And do you know that such a settlement is illegal, do you know that the judge may refuse to be a party to it? Mind, the judges in England, as far as I know, do not approve of compromises in criminal cases.

BEDBOROUGH: Oh, that is all right, I am quite safe as everything has been settled satisfactorily. The case does not come before the judge at all, it will come before the Recorder, and Mr. Matthews arranges everything with Sir Charles Hall beforehand. There is no risk.

THE EDITOR: Be careful, such a settlement sometimes may benefit all parties concerned, but under the circumstances it is a dangerous and a scandalous thing. Can you refund the money received by your solicitors for the defence from the Free Press Defence Committee?

BEDBOROUGH: No, I cannot, but what could I do, the proposal came from the prosecution, how could I refuse? I must save my skin, I do not want to go to prison.

THE EDITOR: Have you consulted the Committee before you accepted these terms?

BEDBOROUGH: No, I have not, they would never have consented. What do I care for them?

THE EDITOR: Well, Mr. Bedborough, take care, no English judge, not even the Recorder, will be a party to a settlement of this kind, and the safer way for you, and the more honorable way, would be to brief counsel for the defence.

BEDBOROUGH: My solicitor assures me that that would be unnecessary, and the money thus spent would be thrown away. I hear that the whole thing will be over in less than twenty minutes. I am to state that I plead guilty to three counts of the indictment, and not guilty to the others. Then Mr. Matthews, the prosecuting counsel, will declare that he accepts my plea, and that the prosecution would be satisfied if his lordship the Recorder would bind me over in my own recognizances. Of course then the Recorder will make a short speech, but in the end he will act upon the suggestion of Mr. Matthews. Wyatt Digby, my solicitor, says this settlement is in the interest of everybody concerned.

THE EDITOR: Oh, certainly, particularly in that of Wyatt Digby who has received about £400 for the defence. Well, good luck.

THE TRIAL.

It is a wonderful arrangement indeed; the case which, according to the statement of the defendant's solicitor, would last at least three days, was over in less than twenty minutes.

But only from the lips of Mr. Matthews we have an authentic statement how this compromise came about. His statement in the Central Criminal Court was not contradicted or modified in any

way by the accused, and therefore it must be considered as the correct one.

Yet the result of the deal was predicted quite correctly by Mr. Bedborough; counsel and Recorder acted exactly as he had stated some days previously. The accused left the court free, Sir John Bridge, in fixing his bail at £1,000, had made a most serious blunder, he had sent an innocent or quasi-innocent man for trial.

I give here the verbatim report of this remarkable and perhaps unique trial. My subsequent comment will clear up some dark points and rectify palpable errors.

Copy of Verbatim Report.

CENTRAL CRIMINAL COURT.

MONDAY, OCTOBER 31ST, 1898.

BEFORE SIR CHAS. HALL (*Recorder*).

REGINA v. BEDBOROUGH.

(FOR LIBEL.)

MR. MATTHEWS appeared for the PROSECUTION.

MR. TICKEL (*Clerk of Arraignment*): George Bedborough: You are indicted for having unlawfully and wickedly published and sold, and caused to be procured and to be sold, a wicked, bawdy and scandalous and obscene book called "The Study of Psychology of Sex." There are other counts charging you with having published other obscene and scandalous books. Are you guilty or not guilty?

THE DEFENDANT: I am Guilty on Counts 1, 2, and 3.

MR. MATTHEWS: And as to the rest?

THE DEFENDANT: I am not guilty.

MR. TICKEL: May the jury go, my lord?

THE RECORDER: Yes, if Mr. Matthews accepts that plea. Do you accept that plea, Mr. Matthews?

MR. MATTHEWS: Yes, my lord, but I shall have something to say with regard to those counts to which he has pleaded.

THE RECORDER: Those counts are what?

MR. MATTHEWS: Nos. 1, 2, and 3, my lord. The first relates to a book to which I desire to make no further reference, except by

(in my own language) adding to the plea of the prisoner that it is an unseemly, suggestive book. So far as Count 2 is concerned that is the publication in print of a lecture purporting to have been delivered at a meeting of the Legitimation League on December 6th of last year, and which still purports to be the outcome of the Legitimation League. With regard to what has been printed in that pamphlet I am desirous of adding to the plea of the prisoner, as it is recorded now, that it is obscene in its character, and that it was issued with the described intention.

THE RECORDER: Is the prisoner defended by counsel?

MR. MATTHEWS: I think not now, my lord.

THE RECORDER (*to the defendant*): You appear here personally, or have you counsel?

THE DEFENDANT: I am quite indifferent, my lord, as to that. Mr. Matthews says there is no counsel representing me. If that is so I am prepared to go through without counsel.

THE RECORDER: Very well.

MR. MATTHEWS: The 3rd Count of the Indictment—and it is right, I think, that your lordship should have these matters before you—refers to the issue of the January number of the so-called magazine, which has the title of the *Adult*, and the extract in the January number is referred to in the 3rd Count of the Indictment, and is said to be now confessed by the defendant to be obscene in its character. My lord, on behalf of the prosecution, represented by my friend Mr. Danskwertz and myself, we are content, as is the Commissioner of Police—who was responsible for the conduct of this prosecution before the magistrate, and is responsible here to-day—we are content to accept the plea of the prisoner on the 1st, 2nd, and 3rd Counts more especially; but I may tell your lordship that so far as the eight remaining Counts are concerned—the Indictment consisting of eleven Counts—the eight remaining all of them refer to other numbers of that same periodical in the so-called magazine entitled the *Adult*. My lord, since the defendant has thought right to plead Guilty to the 3rd Count, which says of everyone of those, that it is obscene, and since he has in public made confession that it is so, we will content ourselves, so far as the remaining Counts are concerned, to forego proceeding with regard to them, referring as they do to other

numbers of that magazine. But I may here say that it must not be for one moment understood that we withdraw in any sense the charge that we make against him in connection with those Counts, that they are obscene in their character.

May I tell your lordship that in the first instance that when this prosecution was started it was conceived by those in authority that the defendant who is before you was a chief offender in the publication and sale of this disgusting book, in the publication and sale of this disgusting lecture, and in the publication and sale of this disgusting magazine. That was then the belief that he was the prime mover, at all events a prime mover in the circulation of this specious literature. But, my lord, on examination, I am glad to be able to tell your lordship he has shown us that we were mistaken in this belief, and I am very glad to be able to give your lordship that assurance to-day because, the magisterial inquiry being over, the defendant took a course of which I think your lordship will entirely approve, for he himself, of his own action, without any invitation at all, went to the authorities at Scotland Yard, placed himself in communication with them, and to them he disclosed what he said was the actual position which he occupied with regard to the publication and sale of this work. My lord, he did more than that: he asked the police at Scotland Yard to make inquiry for the purpose of satisfying those officers that what he told them was true, and that he had taken no principal part in this terrible traffic, but that his part was entirely subordinate, and so subordinate that he was able to reduce it to its proper proportion, and the result of what he said, followed by the inquiry made by the police, was to show that so far as the sale and publication was concerned, during the whole time, that the prisoner was acting as sub-agent for what is called "The Watford University Press," and that in publishing this book he, the defendant, acted as sub-agent for that press at some premises in John Street, Bedford Row.

THE RECORDER: What is it called?

MR. MATTHEWS: "The Watford University Press," my lord.

THE RECORDER: It has nothing to do with any university at all, I suppose?

MR. MATTHEWS: No, my lord, it is a mere title.

THE RECORDER: It is a very high-sounding title, which may take in a great many people.

MR. MATTHEWS: No doubt, my lord, and we may take it to be so. For that purpose, no doubt, it was, as I told you, but I do not think the defendant was responsible for that. However that may be he did make it clear that during the time he was in office in John Street, Bedford Row, there had been personally sold by him three copies, and only three copies, of this work at all. He also called attention to the fact—and he had a perfect right in calling attention to it—that before the time he was employed upon these premises there was employed there another sub-agent, who had been there for a considerable time, and that sub-agent was called by us before the magistrate, and that before the time he went there no doubt there was an exceedingly large sale under him. In addition to that there was another salesman. There was a housekeeper employed during the time the defendant was employed there, and that housekeeper sold no less than ten copies, all in the absence of the defendant.

THE RECORDER: Surely that is not the girl of 16 who was allowed to handle these wretched books?

MR. MATTHEWS: No, my lord, she is an older woman than that. The defendant has been able to show (and that is one of the substantial grounds of his appeal) that there preceded him a man who extensively sold these books, and against whom no proceedings have been taken, while the defendant says, "I sold no more than three in all." There was another person employed at the same time, who sold more than three times that number. They are witnesses, but there is that difference between him and them, which he asks to have directly pointed out to you. Then on its being said, "Oh but as far as you were concerned you were in authority and you were the person actually in control." "Not so," says the defendant, "the person really in control, and the person who had the control of the Watford University Press, and the person who made all the profits out of the sale of those books produced by the Watford University Press, was a Dr. de Villiers." That was the man at the head of the Watford University Press, and that was the man who made the profit out of those things, and that was the man who for a long time then had been the offender—the head and front of the offending, the outcome of circulating this class of

literature. That that is the fact there can be no question at all. My lord, Dr. de Villiers has absconded. Against Dr. de Villiers a warrant has been applied for, and granted, and if Dr. de Villiers, who I am told is abroad at this moment, shall venture to return to this country, he may be quite certain that that warrant will be followed by immediate execution. My lord, may I say that those discoveries of themselves do not very materially reduce the quality of the prisoner's guilt in regard to the publication and sale of this book. No doubt with regard to the lecture, the subject-matter of Count 2 of the Indictment, that is an outcome of the Legitimation League, it was not a lecture delivered by the defendant at all; but it was a lecture delivered by some person quite distinct from him. It was a lecture delivered by one who styles himself "Oswald Dawson," and it was delivered before the Legitimation League, although unquestionably at the time of its delivery the defendant was the secretary of that League. My lord, in reference to his connection with that League the defendant gave an earnest assurance that he would as far as he himself was concerned, from the date he was speaking, sever all connection with that League, and that he would sever himself from it once and for ever, that he would have no further dealing with it, and that he would decline any capacity which he held under it. With regard to the three indictments dealing with the publication in the so-called magazine in the January number, there again no doubt the defendant was the editor of that magazine, and he was so advertised upon the outward leaves of it. But there again he told the authorities that he had determined to sever himself not only from this magazine, and from the publication of this magazine, but he would sever himself once and for ever from the publication of anything of a similar nature, or which could be described as similar to this in future, that he would cut himself adrift from all surroundings by which he had been connected with the Legitimation League, and from all surroundings connecting him with this particular magazine.

My lord, those assurances being given, and it being realised that the real head and front of this offending was the absconding man Dr. de Villiers, and it then being realised the part that the defendant has played in this story, that no money had gone to him as the proceeds of the sale of the book, and that so far as his

connection with this League and his connection with this magazine is concerned, though there had been that connection, he is desirous forthwith of severing himself, my lord, we do find evidence of good faith; and the giving of that assurance by the defendant to us, given as it were in the course of this month of October, I return to what is said to be the November number of the issue of that magazine, and we there find the name of another editor upon its title page. The defendant therefore has fulfilled that understanding in so far as that magazine is concerned. I only now venture to add in your lordship's hearing—and I trust in doing so I do not exceed my duty at all, in saying that so far as that magazine is concerned, it is one which will receive considerable watchfulness from those who are in authority, and that they who now go on with its publication must do so fully conscious that here, in a public court, one number of this same magazine has been confessed to be obscene in its character, and the publication of it is of such a character as to involve criminal punishment. My lord, I trust that they who are responsible for the conduct of this so-called magazine will bear that well in mind, because, as I say, the contents of it must of necessity be somewhat keenly watched by those in authority.

Now, my lord, the defendant having convinced us of his actual position, and moreover after his undertaking, I am glad to be able to tell your lordship that he is a young man, as your lordship can see, and, moreover, he is a young man of very considerable capacity—

THE RECORDER: One of the horrible things in connection with this filthy publication is that one woman bearing his name has been taking part in it, because I see a portrait in this magazine. I presume it is his wife.

MR. MATTHEWS: My lord, I presume so. My lord, I understand that is so. What the authorities desire to place before your lordship is this: Having this plea recorded of this young man, who has occupied this subordinate position, and having regard to the fact that he has given undertakings, and fulfilled one of those undertakings, the authorities are content, having regard to the surroundings of this particular case, if your lordship will defer passing sentence upon this young man before you, and that you will allow him to go out upon his own recognisances to come up

for judgment when called upon. We conceive that that course will have a very salutary effect, because it may be he will be able to turn the good talents which he evidently has to a useful purpose, and he will know and will be thoroughly able to recognise that if he shall turn them in the direction—or in any such direction as he has promised not to turn them to, he will know that he is liable upon this conviction which has been recorded upon this indictment. I therefore ask that your lordship, under all the circumstances of the case, will adopt the course we suggest, and accept from me the complete statement of what the defendant has said, and take the lenient course which the authorities desire to commend to your lordship for adoption.

JUDGMENT.

THE RECORDER : George Bedborough : You have pleaded Guilty to the 1st, 2nd, and 3rd Counts of this Indictment, and you have acted wisely in so pleading to these Counts, for it would have been impossible for you to have contended with any possibility whatever of being able to persuade anybody that this book, this lecture, and this magazine were not filthy and obscene works.

Now I have listened with great care to the address of the learned counsel, Mr. Matthews, who appears for the prosecution in this case, and I think it is right and proper that he should point out to the court and to you as the leading spirit in this venture what he has done. I am willing to believe that in acting as you did, you might at the first outset perhaps have been gulled into the belief that somebody might say that this was a scientific work. But it is impossible for anybody with a head on his shoulders, to open the book without seeing that is a pretence and a sham, and that it is merely entered into for the purpose of selling this filthy publication. But it has been pointed out to me, as I say, that you have taken a very small part in this, and I am unwilling myself that you should suffer while others go scot free who have taken a much bigger part in this affair than you have ; and I am willing to believe that the instructions you have given are genuine and well founded. Again I must say that my greatest regret in connection with this case is to find a female with your consent—a woman bearing your name—is put forward as an active participator in these unwholesome and filthy discussions. If you can use such influence as you have—and you can do so if you choose,

I hope you will; and after the assurances you have given I trust it will not be necessary for anyone near and dear to you to be brought here. I agree with what Mr. Matthews has said, the law is slow but sure, and this sort of thing could not be tolerated, and if it goes on it must be put down by the strong arm of the law. I shall take the course which he has thrown out to the court. I shall postpone sentence in this case, or rather I shall bind you over upon recognisances to come up for judgment if called upon. The result of that will be this—that so long as you do not touch this filthy work again with your hands, and so long as you lead a respectable life, you will hear no more of this. But if you choose to go back to your evil ways, you will be brought up before me, and it will be my duty to send you to prison for a very long term.

The sentence of the court upon you is that you be bound over in your own recognisances in the sum of £100 to come up for judgment if called upon.

The defendant was then bound over in the usual form in the sum of £100, and released on those recognisances.

The reader can only grasp the importance of this mock trial if he is thoroughly conversant with the position of the author of the incriminated book and that of the publishers towards this prosecution.

The *Saturday Review* sums up the situation quite correctly:—

“Owing to the form the prosecution took it fell on the publisher to defend the character of the book objected to, and for this purpose counsel had been instructed and evidence of the most conclusive character was in readiness, eminent men of science testifying that Mr. Havelock Ellis’s was a perfectly proper scientific discussion of a serious subject. But at the last moment, and, we have no doubt, with the knowledge of this circumstance, the Crown made certain proposals to Bedborough, the publisher, and this individual, for reasons best known to himself, adopted the shameful course of pleading guilty on some of the counts. The unhappy author, who was prepared to defend everything he had written, thus found the ground suddenly cut from under his feet; he had no *locus standi* and could in no way interfere to prevent the monstrous miscarriage of justice which inflicts on him so grave and undeserved a stigma. But, so far as we can see, he has absolutely no legal redress.”

The cowardice of the accused and the greed of his solicitor, combined with the natural desire of the Commissioner of Police to gain a cheap victory where a defeat was almost certain, had brought about this deplorable state of affairs.

The first Count of the Indictment to which Mr. Bedborough thought fit to plead guilty runs as follows:—

“CENTRAL CRIMINAL COURT TO WIT. The Jurors for our Sovereign Lady the Queen upon their oath present that George Bedborough, being a person of a wicked and depraved mind and disposition, and unlawfully and wickedly devising, contriving, and intending, to vitiate and corrupt the morals of the liege subjects of our said Lady the Queen, to debauch and poison the minds of divers of the liege subjects of our said Lady the Queen, and to raise and create in them disordered and lustful desires, and to bring the said liege subjects into a state of wickedness, lewdness, and debauchery, on the 27th day of May, in the year of our Lord one thousand eight hundred and ninety-eight, at a certain shop, to wit Number 16 John Street, Bedford Row, in the County of London, and within the jurisdiction of the said Court, unlawfully, wickedly, maliciously, scandalously, and wilfully did publish, sell, and utter, and cause and procure to be published, sold, and uttered a certain lewd, wicked, bawdy, scandalous, and obscene libel, in the form of a book entitled ‘“Studies in the Psychology of Sex: Vol. I., Sexual Inversion,” by Havelock Ellis,’ in which said book are contained, amongst other things, divers wicked, lewd, impure, scandalous, and obscene libels, and matters, which said book is, pursuant to the provisions in that behalf, of the Law of Libel Amendment Act, 1888, deposited with this indictment, together with the particulars showing precisely by reference to pages, columns, and lines, in what part of the said book the alleged libel is to be found. To the manifest corruption of the morals and minds of the liege subjects of our said Lady the Queen, in contempt of our said Lady the Queen, and her laws, in violation of common decency, morality, and good order, and against the peace of our said Lady the Queen, her Crown and dignity.”

OFFICIAL SLANDER.

A novel feature in this extraordinary case is the public denunciation of the author of the incriminated book implied in Mr. Matthews’ speech and of the Editor of the *University Magazine*, Dr. R. de Villiers, who, besides writing a letter on the subject of the prosecution of the Home Secretary (*vide* page 14), is in no way whatever connected with its publication. If the Commissioner of Police responsible for the prosecution wanted an excuse for adopting the course they had elected to pursue, it is unintelligible why the occasion should be used to slander an author of world-wide repute and the Editor of a respectable magazine who had dared to call their attention to the grave mistake made by this prosecution, and thereby actually suggested the course which the prosecution later on adopted to extricate itself from the entanglement.

We must believe Mr. Charles Matthews when he states that the accused approached the police, and that Bedborough’s own ver-

sion that the proposal of a compromise came from the prosecution is false, but the other statements made in Mr. Matthews's speech are so devoid of truth, so palpably false that we must come to the conclusion that the solicitors who instructed this eminent counsel have been grossly deceived. The truth or falsehood of some of the statements could have been so easily ascertained that culpable negligence or wilful deception is the only explanation of the extraordinary brief delivered to Mr. Matthews. As it is not to be supposed that Messrs. Wontner and Sons are aware of the misstatement of facts, we must come to the conclusion that these misrepresentations emanate from Scotland Yard or from the same "Christian" who wrote the ominous letter to the booksellers (*vide* page 18).

Mr. Matthews said that the police authorities had, in consequence of Bedborough's own statement, verified by them, come to the conclusion that he was not the principal offender, but a very subordinate sub-agent of Dr. R. de Villiers, the Editor of the *University Magazine*, against whom a warrant was issued to take the place of the repentant accused in the dock.

Now this statement in view of easily ascertainable facts is not only false but absurd, as I will show further on, but I may first of all repudiate the counsel's statement that the firm of which I am a member was ever called the *Watford* University Press. Such a firm does not exist, and one look at Dr. Havelock Ellis's book would have given Mr. Matthews the information that it has been published by the University Press Limited, a concern registered as a limited liability company. Before the incorporation the business was carried on by Mr. Wilson, Macmillan, and myself in partnership, and Dr. de Villiers was never at any time financially interested in this concern. His only connection with the University Press Limited was as the Editor of the *University Magazine and Free Review*, printed and published by the University Press.

According to counsel's statement the accused had informed the police that he was not responsible for the publication of any one of the three incriminated books. These were—

1. Dr. Havelock Ellis's *Studies in the Psychology of Sex*.
2. *The Outcome of Legitimation*, by Oswald Dawson.
3. *The Adult*, January, 1898.

Yet, although he was not responsible for these publications the

worthy knight pleaded guilty to these three counts only, and not guilty to the other eight counts which refer to publications which bore his name as editor and proprietor on the title page.

That Mr. Bedborough was not the author of the first named book, that he was not the printer nor the publisher of the same was known to the police from the beginning, and the offence with which he was charged was, as Sir John Bridge pointed out, not the writing or printing or publishing of this book, but the indiscriminate sale of the same. Mr. Matthews ignored this altogether.

The second publication, Oswald Dawson's *Outcome of Legitimation*, a pamphlet of 16 pages, was neither published nor printed by the University Press. It was the sole property of Mr. Bedborough. Dr. de Villiers probably has never seen this sheet. Its author was Oswald Dawson, the founder of the Legitimation League. The third count in the Indictment refers to a small book which was also written by Oswald Dawson, it was printed in Leeds as a New Year's Number of the *Adult*, a magazine owned and edited by George Bedborough. The University Press had nothing whatever to do with this publication, and I had never seen a copy of it until after the trial.

A glance at these pamphlets would have convinced Mr. Matthews that Mr. Bedborough's statement that he had sold the same as a sub-agent of the University Press was a deliberate falsehood. The same contain portraits of Mr. and Mrs. Bedborough and of Mr. Dawson, the principal officials of the Legitimation League, and on the title page bear the name of this League and of Oswald Dawson.

The Recorder seemed reluctant to swallow counsel's statement in regard to Count No. 3, but he got over the difficulty somehow by expressing his astonishment that this publication contained the portraits of Mr. Bedborough's wife and of the accused. No doubt he missed the portrait of Dr. de Villiers who was selected to serve as a scapegoat in the case.

ANALYSIS OF COUNSEL'S STATEMENTS.

According to his own statement Mr. Bedborough was the sub-agent of the University Press. To prove the falsehood of this assertion I publish the facsimile of a bill of his, which relates to an advertisement in his magazine the *Adult*.

16. JOHN STREET,

BEDFORD ROW.

London, April 4th 1898

W.C.

M The University Press Ltd

Dr. to George Bedborough,

PUBLISHER

THE ADULT: The journal of Sex.

To Advt

in April Adult £1 - 2

Settled
per contra
Bedborough
4/4/98

This bill needs no comment, it speaks for itself. The accused further asserted that he had sold only three copies of Dr. Havelock Ellis's book. The following letter, which is in my possession, will destroy this illusion:—

“The Legitimation League,
“George Bedborough, *Hon. Sec.*

“16, John Street, Bedford Row,
“May 17th, 1898.

“GENTLEMEN,—Please send another 13/12 *Sexual Inversion*. I have sold the last 13/12 and will let you have a cheque in settlement of your account. These books have nearly all been sold to the trade.

“Yours faithfully,

“GEORGE BEDBOROUGH.”

“The University Press Limited.”

From this letter it will be seen that Bedborough did not act as the University Press's agent, but as a customer of the firm, and the trade-term 13/12 shows that he had acquired the books on the usual condition.

It is not usual in England for publishers to employ sub-agents or agents to sell books, and all the London booksellers carry on business on their own account not as publishers' agents.

Another communication received by the University Press from Mr. Bedborough on April 1st, 1898, will prove that he never acted as the agent of this concern but as a customer:—

“The *Adult*, The Journal of Sex,
“Edited by George Bedborough.

“16, John Street, Bedford Row, London,
“March 31st, 1898.

“Please send invoice by return and quote lowest for 250 and 500 respectively additional copies April No.

“GEORGE BEDBOROUGH.”

“The University Press Limited.”

Our books, however, prove that *Bedborough never paid* for the books which he bought from the University Press on credit, and thus even the statement that this concern obtained the profits of the sale effected by Mr. Bedborough, which was made with great flourish by Mr. Matthews, is absolutely false.

Counsel in the clearest possible language asserted that the accused went to the police, and stated there, to exculpate himself, that Dr. de Villiers was the person who had the control of the

University Press, and that he was the man “*who made the profit out of those things.*”

That this statement, if ever made by Mr. Bedborough, was on a level with the foregoing explanations can be proved from his own letters. That it was contrary to fact could have easily been ascertained by the police.

I acquired from Mr. John M. Robertson in 1895 the copyright of the *Free Review*, which magazine was in 1897 enlarged to the *University Magazine*. I was the sole proprietor of this periodical, and I have paid with my own cheques or with those of my wife the purchase money for the same, as also all expenses connected with the printing and publishing of this monthly magazine. As I am living the greater part of the year in Paris and New York Dr. de Villiers acted as the sub-editor of the *Free Review*, and in 1897 as the chief editor of the *University Magazine*. As stated before he had never anything to do with the financial part of this business.

In 1896 and 1897 I erected printing works in Watford for the purpose of printing the *University Magazine*.

The police could easily have ascertained that these works stand on the freehold ground belonging to my wife, and that every single item, machinery, type, paper, rates, and taxes, have been paid with my cheques or in my absence with my wife's cheques.

The police could also have found out that the payments for the printing of Dr. Havelock Ellis's book were not made by Dr. de Villiers, but by me, until the business was registered at Somerset House as a limited liability company, when payments were made and received by the secretary of the company.

In view of these facts which were accessible to the police it is an enigma why the Commissioners of Police decided to make the Editor of the *University Magazine* an exile and to banish him from our shores. There must be some secret reason if it is not the letter addressed by this gentleman to the Home Secretary which has offended the police authorities by exposing a serious blunder which they have made.

The *University Magazine and Free Review* has severely dealt with some abuses and irregularities, and the suppression of this

publication has been cleverly managed, but there was no need to slander its editor.

If there is any honest desire on the part of the Commissioners of Police to arrive at the truth I am prepared to place at their disposal invoices, cheques, and documents proving that Dr. de Villiers had nothing whatever to do with the financial management of the University Press from its foundation to this day.

DR. HAVELOCK ELLIS.

The other party slandered in open court by Mr. Charles Matthews is the author of many important scientific works and the editor of the Contemporary Science Series (Walter Scott).

He has stated his case in a pamphlet of which I give the following extracts.

It is doubtful if the wrong done to him by Mr. Matthews can ever be made good, he had no *locus standi* to defend himself in view of Mr. Bedborough's plea of guilty, and could appeal only to the sense of justice which yet is to be found in the majority of the medical profession and of all right minded men.

Havelock Ellis says:—

“Although the police took no direct action against the author, publishers, and printers of the book, the effect of their action was calculated to be as fatal to the book as though they had proceeded directly against its producers.

“The incriminated passages, when read out in court, proved to be simple statements of fact, mostly from the early life of the cases of inversion recorded in the volume, and my responsibility for them merely lay in the fact that I judged them to contain, in bald uncoloured language, the minimum of definite physical fact required in such a book, if it is to possess any serious scientific value at all. When, however, three months later, the indictment was finally issued, it appeared that the whole book, from the first page to the last, ‘and every line in such pages,’ was charged as ‘wicked, lewd, impure, scandalous, and obscene.’ It was solely on this ground, and not on any alleged impropriety in the method of sale, that the charge was founded.

“I may here briefly state the general character of the book.

It is the more necessary to do so since no undue publicity has been sought, and the book was so little known before these proceedings were taken, except to specialists, that the majority of my own friends had never heard of it until they saw it proclaimed as 'obscene' in the police news of every London newspaper.

"*Sexual Inversion* is the first volume of a series of *Studies in the Psychology of Sex*, which I projected over twenty years back, and which I have ever since had before my mind, as the serious and vitally important subject to which the best energies of my life should be devoted. The work will extend to five or six volumes, and although this first volume discusses a form of perverted sexuality, the *Studies* as a whole will deal mainly with the normal sex impulse. It should be needless to point out the magnitude and the importance of the problems arising in such an investigation; in this first volume, moreover, we are brought face to face with a practical question which is constantly demanding attention, both in society and the law courts. Whatever diffidence one may feel in approaching questions of this nature, there should be no doubt as to the necessity of so doing provided we approach them seriously.

"How seriously I approached this great subject may be judged, not only from the long period of labour and preparation spent on the work, but from the fact that I occupied several years in the merely preliminary task of attempting to clear the ground by inquiring into the psychological and anthropological secondary sexual differences of the sexes, the main results of this special inquiry appearing in 1894 under the title of *Man and Woman*. Before its publication in England, *Sexual Inversion* had been translated into German by Dr. Kurella, a physician and criminal anthropologist of distinguished reputation, and published at Leipzig. In its final English shape it expresses my most mature convictions on the subject it treats; the opinion of judicious friends had been obtained at doubtful points, and every sentence carefully weighed. Errors of fact or opinion may possibly be found, but there is not a word which on moral grounds I feel any reason to regret or withdraw. Any question of retractation or

apology could not, therefore, possibly arise ; it would be a kind of intellectual suicide.

“It has been supposed by many who have never seen the book that I have attempted to popularise the study of sexual questions, and to make widely known the results obtained by other investigators. That is altogether a mistake. The book is founded on original data, and contains the first collection of cases of sexual inversion, unconnected with the prison or the asylum, which has ever been obtained in England ; it is written in bald and technical language, published at a high price ; and having been announced and sent for review only in special medical and scientific quarters, its existence was practically unknown to the general reader until these proceedings were initiated. There may well be, I know, a question as to the value of cloistered virtues, as to the worthiness of that innocence which is merely ignorance and vanishes at a breath, as to the rights of every adult person to full knowledge of the sexual facts of life. But that question is not raised by my work. I appealed only to doctors, to psychologists, to those concerned with medico-legal matters, and to the handful of thinkers who are interested in the social bearings of the physical and psychic problems of life. By such my work has been accepted—so far as I know at present without exception—in the serious spirit in which it was put forward. Every alienist of distinction whose opinion I have obtained has assured me of his belief in the importance of the subject, and of his sense of the scientific tone and temper in which I have dealt with it. Every medical journal in half a dozen countries which has reviewed the book has without exception judged it favourably, and not one has suggested that I have been guilty of the slightest impropriety. I may indeed say that the medical support I have received has often been rather on moral than on scientific grounds ; it has repeatedly been remarked that an English tone of reticence distinguishes this book from the other works on the same subject by continental writers. The numerous letters of gratitude for the work, and strong support of its objects, which have reached me from thinkers and social reformers, men and women, I refrain from more than mentioning ; they have sufficed to show me that

the aim and nature of my task are appreciated by the small class of people whom, in addition to medical readers, I have alone sought to address.

“The publisher and myself were duly represented by counsel, but having no standing in the case he was necessarily unable to speak. Thus although my book was the real subject of the trial there was no legal opportunity for any voice to be heard on its behalf.

“Intelligent spectators of life have declared that this prosecution of a book-seller for selling a purely scientific work will mark an epoch so far as our country is concerned. It has acted as a *reductio ad absurdum*, they say; it has quickened the public conscience to a finer sense of what is fitting in these matters. Henceforth public opinion will be strong enough to check at the outset any foolish interference of the police with scientific discussion. Just as a police charge of ‘blasphemy,’ which twenty years ago was a real and serious charge, would to-day only arouse a smile, so, it is said, never again could a scientific book, issued and sold as this was, be dragged into the mire of the courts as ‘obscene,’ or a reputable citizen who sold such a book be haled before the magistrate on a charge of ‘corrupting the morals’ of his fellow subjects.

“It may be so. I would gladly believe that any action of mine had assisted my countrymen to win that intellectual freedom which is already possessed by every other civilised country except Russia. But no one can give any guarantee that such will be the fact, and life is too short to enable me to wait another twenty years to verify the prophecy.

“It must be remembered that so far as an author is concerned the injury done by such a prosecution is done in the act of bringing it. The manifold chances that befall a book on any highly specialised and technical subject, when submitted to a judge and jury, may or may not lead to the justification of the author. The injury is already done. The anxiety and uncertainty produced by so infamous a charge on a man and on those who belong to him, the risk of loss of friends, the pecuniary damages, the proclamation to the world at large, which has never known and will never know the grounds on which the accusation is made,

that an author is to be classed with the purveyors of literary garbage—this power is put into the hands of any meddling member of that sad class against which the gods themselves are powerless.

“The mere expectation of such a prosecution is fatal. In submitting to these conditions an author puts his publisher and printer and their agents into an unmerited position of danger; he risks the distortion of his own work while it is in progress; and when he has written a book which is approved by the severest and most competent judges he is tempted to adapt it to the vulgar tastes of the policeman.

“How real the danger is to which an author, in submitting to these conditions of publication, subjects the distributors of his book, we have an object lesson in the present case. Here is a man who in his leisure time, edits and publishes a magazine with the object of discussing social questions of the gravest importance. Yet when such a man sells in an almost private manner a few copies of a book written by another man, with whose aims and objects he probably has little in common, the whole responsible machinery of social order is, at the public expense, set in action to crush him. Such is the risk to which an author subjects the mere distributors of his book.

“This is a risk to others, and a domination over myself, which I at all events have no intention of submitting to. In this country it is a sufficiently hard task for any student to deal with the problems of sex, even under the most favourable circumstances. He already, as it were, carries his life in his hands. He has entered a field which is largely given over to faddists and fanatics, to ill-regulated minds of every sort. He must, at the same time, be prepared to find that the would-be sagacity of imbeciles counts him the victim of any perversion he may investigate. Even from well-balanced and rational persons he must at first meet with a certain amount of distrust and opposition. To encounter this inevitable and legitimate opposition, and to preserve his serenity and equipoise, is itself a sufficient strain on any man. It would be foolish to place oneself as well beneath the censure of an ignorant and too zealous police official, and to accept the chain of uncertain evils, and the certain

public stigma, which a prosecution necessarily involves.

“Moreover, it must be noted, the police naturally desire that their intervention shall be successful, and it is their interest to prejudice matters by discrediting the object of their attack. This was ingeniously done in the present case by proceeding against a book-seller who was in no way connected with the production of the incriminated book, or in any way concerned with the scientific questions it discussed, but who was intimately connected with a society and a magazine devoted to the open and popular propaganda of unconventional views on marriage, matters with which I, on my side, had no connection. Thus in every newspaper a stain of prejudice is affixed to an author or a book, not to be wiped off by any subsequent explanation, and for which no compensation can ever be obtained.

“Under these circumstances, therefore, the difficulties of publishing the remaining volumes of my *Studies in the Psychology of Sex* in England are sufficiently obvious, and the decision I have been forced to reach seems inevitable. To wrestle in the public arena for freedom of speech is a noble task which may worthily be undertaken by any man who can devote to it the best energies of his life. It is not, however, a task which I have ever contemplated. I am a student, and my path has long been marked out. I may be forced to pursue it under unfavourable conditions, but I do not intend that any consideration shall induce me to swerve from it, nor do I intend to injure my work or distort my vision of life by entering upon any struggle. The pursuit of the martyr’s crown is not favourable to the critical and dispassionate investigation of complicated problems. A student of nature, of men, of books, may dispense with wealth or position; he cannot dispense with quietness and serenity. I insist on doing my own work in my own way, and cannot accept conditions which make this work virtually impossible. Certainly I regret that my own country should be almost alone in refusing to me the conditions of reasonable intellectual freedom. I regret it the more since I deal with the facts of English life, and prefer to address English people. But I must leave to others the task of obtaining the reasonable freedom that I am unable to attain.”

Dr. Havelock Ellis in consequence of this prosecution has received numerous letters of sympathy from well known medical men who unanimously condemn the attack made by the police on a scientific work.

Amongst these I may name—

DR. CONOLLY NORMAN, Medical Superintendent of the Richmond Asylum, Dublin; formerly President of the Medico-Psychological Association.

DR. G. H. SAVAGE, F.R.C.P., Lecturer on Mental Diseases at Guy's Hospital.

DR. URQUHART, President of the British Medico-Psychological Association; Joint-editor of the *Journal of Medical Science*.

DR. MERCIER, Lecturer on Insanity at the Westminster Hospital and at the Medical School for Women.

DR. RAYNER, Lecturer on Psychological Medicine at St. Thomas's Hospital.

DR. GOODALL, Medical Superintendent of the Joint Counties Asylum, Carmarthen.

DR. MOREL, Medical Inspector of Prisons in Belgium.

DR. CLOUSTON, Medical Superintendent of the Royal Asylum at Morningside, Edinburgh, and Lecturer on Mental Diseases at the University of Edinburgh.

DR. C. H. HUGHES, Editor of the *Alienist and Neurologist*, President of the Faculty of Barnes Medical College.

DR. JAS. KIERNAN, Secretary of the Chicago Academy of Medicine.

Dr. Féré, the illustrious physician of the Hospital Bicêtre at Paris, writes:—

“DEAR SIR,—I have read your book on Sexual Inversion with interest and profit. In a recent work I have quoted it; I could not have thus aided in its publicity if I had not found it to be of scientific and not immoral character. Truth is always moral and good; in seeking truth science cannot be either immoral or bad.

“The book is scientific, and consequently good, and it would be a pity if those whose interest it is to know the book should be unable to procure it. It may, however, happen that a bookseller adopts bad methods to sell a good book, and I am not acquainted with the facts of the present prosecution so far as the bookseller is concerned.” [Translated.]

Dr. Kurella, the well known Editor of the *Centralblatt für Nervenheilkunde*, writes:—

“HONOURED COLLEAGUE,—I read a few days ago in the *Daily Chronicle* that a book with the title of yours had given rise to a public prosecution. I wondered at the identity of title, but could not imagine that a purely scientific work like yours should be subjected to such treatment.

“For us on the Continent such a proceeding is altogether incomprehensible. What would become of science and of its practical applications

if the pathology of the sexual life were put on the Index? It is as if Sir Spencer Wells were to be classed with Jack the Ripper.

"No doubt the judge (unless suffering from senile dementia) will accord you brilliant satisfaction. But in any case the whole of scientific psychology and medicine on the Continent is on your side." [Translated].

From all parts of the world similar letters were received, the indignation at the prosecution of a scientific treatise was almost universal.

Mr. Clark Bell, LL.D., Editor of the *Medico-Legal Journal* and Secretary to the Medico-Legal Society of New York, says:—

"DEAR HAVELOCK ELLIS,—I learn with mortification and regret that an attempt has been made to bring a charge of 'publishing an obscene libel' against a bookseller who sold your *Sexual Inversion*. The book is purely scientific and could have had no other possible intention than the completion of your admirable system of works, of which it forms an interesting and most necessary part. The group of works which you have contributed to psychological literature has, as a whole, greatly added to the lustre of your name, not alone in the Medico-legal Society but among the savants of the whole world, who will certainly sustain you by their sympathy, should any attempt be made to impugn your professional or literary honour by officers of the law who very possibly cannot be made to look at your conduct and motives properly."

The opinion of the Scientific and Medical Press is unanimous in praise of the scientific character of the book.

"A very good manual for general purposes of information on the subject, and likely to be of great service for the medical as well as legal professions."—*Medico-Legal Journal*.

"With regard to treatment we are glad to express entire concurrence with the opinions laid down."—*Journal of Mental Science*.

"A clear, logical, chaste analysis of the phenomena of sexual inversion, of decided scientific value. It is free from the faults which mar so many otherwise valuable works on the subject. The present volume is the first of a series of studies on sex, important alike to the physician, the biologist, and the sociologist. The volume as a whole merits perusal by its judicial tone, its clear style, its freedom alike from prurient prudery and sentimental cant, and its scientific accuracy."—*Medicine*.

"The work, no doubt, will be liberally received, and in many respects

deserves to be, for it is a careful analysis of the subject, replete with illustrative material, and, written in an attitude of scientific research, it avoids an assumption of moral superiority, so often productive of bias."—*New York Medical Journal*.

"Our readers are already quite familiar with the ability of Dr. Ellis on the subject of sexual inversion through his able contributions to the *Alienist and Neurologist*. . . . The book will interest and instruct all clinical psychiatrists and all physicians of extensive observation and practice. The medico-legal student, the lawyer, the psychologist and jurist will likewise find instruction in this work. It presents singular phases in the morbid sexual life of the *genus homo*. The book has a professional and social interest which cannot be ignored, and medico-legal aspects as well as medical phases which demand professional and philanthropic attention from medical men, medico-legalist and moralist alike."—*Alienist and Neurologist*.

"The facts are new and presented in a somewhat new light. The medical, medico-legal, and social aspects are all duly considered in a scientific spirit, free from prudery or morbid sentimentality."—*New York Medical Record*.

"Many books have been written on this subject during the last few years, perhaps too many, but the present work is clear and serious. We do not know how the extreme reserve of the English will adapt itself to the presentation of so delicate a subject in such clear light. But it was bound to come sooner or later, for it appears that sexual inversion is remarkably frequent in England."—*Revue Philosophique*. (Tr.)

"Havelock Ellis's excellent articles in the *Alienist and Neurologist* have caused his book to be awaited with some impatience. . . . Ellis's book will aid the progress of sexual science."—*Archives d'Anthropologie Criminelle*. (Tr.)

"The author, who has already acquired fame by his *Man and Woman* and *Criminal* . . . has produced a work which is in the highest degree worthy to attract every psychologist and alienist. Its chief service lies less in the cases, which are comparatively few, than in its psychological depth, the historical and scientific grasp of a difficult subject, together with the clear and original presentation of the many problems involved. Certainly no books which have yet appeared render this one superfluous; it may be said, rather, to complement them in the happiest manner, and may be most earnestly recommended. The author rightly points out in the Preface the gravity of the question of sexual inversion from the social standpoint."—*Zeitschrift für Psychiatrie*. (Tr.)

APPENDIX.

THE ENGLISH PRESS AND THE PROSECUTION.

The *Saturday Review* comments on the prosecution as follows:—

“SAINT PROPRIETY.

“The recent prosecution of a publisher at Bow Street brings into prominence the attitude of legal England to publication of knowledge on one branch of human physiology and psychology. Every one knows vaguely that what is called mind and what is called body act and react on one another, and that disordered appetites are at once an index to and a result of the mutual play of disordered organic functions and disordered mental functions. With the history of these lamentable and progressive changes we have become familiar in the cases of inversions of the drink appetite and of the food appetite, because the law has not put its barbaric taboo on knowledge of the stomach or of the palate—even though the knowledge be published at a cheap price. With regard to a third set of inverted appetites, ignorance is almost universal, although from every medical, moral, and social point of view they are precisely parallel in their progressive history—arrested with ease only at the beginning—and in the mental and physical disintegration with which they are associated. A considerable body of knowledge relating to them, however, actually exists. Ploss, in Holland, one of the greatest anthropologists who have ever lived, gathered together from hospital and legal reports, from the customs of the oldest and of the most modern civilisations, from the savages of every colour and climate, a vast mass of information, much of which he embodied in his classical treatise, ‘Das Weib.’ Charcot, one of the subtlest of French observers, has collected from his modern practice and published much of the greatest importance on this subject. Krafft-Ebing, an Austrian physician of world-wide fame, has written a treatise on ‘Psychopathia Sexualis,’ which describes and classifies the disorders of the sexual appetites with the single-minded devotion of a systematic botanist, and his superb volume has been translated into English and published by a well-known firm. Mr. Havelock Ellis, an Englishman thoroughly well known as the editor of a series the special object of which has been to popularise scientific knowledge drawn from all European sources, and himself the author of several luminous volumes simplifying the recondite investigations of specialists on subjects remote from sex, has also written a volume on the subject-matter of Ploss and Krafft-Ebing and Charcot. His London publisher was in consequence prosecuted by the London police as the publisher of an ‘obscene libel;’ part of the public was insulted in Court for not, like the magistrate, anticipating the

decision of a jury; the 'prisoner' was committed for trial, and released only on most substantial bail, and after the magistrate risked turning the defending barrister into a witness for the prosecution.

"We have not the advantage of an exact knowledge of the particular book in question; moreover, as this individual case is still *sub judice*, we have no wish to pronounce the work fit for decent persons to read, even although Sir John Bridge has paved the way for us by his dictum that it was unfit for decent women to hear read. We can assure that magistrate and his like that if this particular volume is at all similar to the works of the standard authorities upon sexual inversion it must abound in descriptions of facts at least as disgusting as the facts of delirium tremens. But we suspect that the objection to them is not that they are disgusting, but that they relate to the functions of sex. To our mind, and to the minds of most people who are not specialists in anatomy, details concerning the pulpy structure of the mass of fat and blood and protoplasm we call the brain, details of the humours and pigments of the eye, details of the coats and glands of the stomach—in fact, details of the gross matter that is our bodies—are all repellent. The brain is as disgusting as the muscles, the blood as horrible as the liver, and the nutritional viscera are no more pleasant than the viscera of reproduction. When we add to the study of structure the study of function, and to that the study of disordered function, the natural horror increases. None the less, who doubts the importance of a widely diffused general knowledge of human anatomy and physiology? We do not demand that knowledge should be confined to doctors, that the treatises containing it should be published only in the *argot* of science and at a price suited only to the pockets of the rich. If a man would spread knowledge of the stomach, he may do so in any form of language, abstruse or popular, which pleases him, and he may charge a guinea or a penny for his book. One exception is made by law and by ignorant opinion.

"Slow, slow, through the ages has been the progress of the battle for free knowledge against compulsory ignorance. In the old tradition, eating of the apple gave man a knowledge of good and evil; but the devil is an unfair bargainer, and it is only from century to century, fragment by fragment, that there has been wrung from him what was supposed to be the price of the fall of man. The great governing institutions, the princes of the Church and of the State, the law, the hierarchy of medicine, have all striven that man, although fallen, shall remain as ignorant as before the fall brought with it its tremendous compensation of choice. Greater minds in every age have fought, and, piece by piece, have added to the range of what may be made known without penalties. In the present century gigantic strides have been made, thanks to Darwin and Huxley, to Bradlaugh, and with him a set of petty martyrs, the very ridiculousness of whose protests illumined the principle behind them. We can now, without fear of prison and penalties, discuss the existence or the attributes of the Almighty, the sacraments of a Church or the conduct of its priests; we may discard revelation, attack the Scriptures, or exalt false gods. We may criticise

the Queen or advocate a republic; we may push the limits of political controversy over the edge of abuse; we may publish anything, in any form, in science, in art, or in letters, quite irrespectively of the relation of our views or new facts to received views and accepted knowledge. All the taboos have been removed except the taboo on sex. Sex and its functions, orderly or disorderly, are removed to an underworld, where, in the blighting darkness, every foul fungoid growth flourishes, and where, in dense compulsory ignorance, good and evil are scarcely distinguishable. The mental side of it, in the silly distortions of epicene novelists, alone is allowed free publication. If a book dealing with sex is not a story, or a poem, or a treatise, the language of which is unintelligible to those without a special training, and the price of which is prohibitive, it is as dangerous to publish it as to break into a house. Meantime the evil results, to individuals and to the State, of ignorant confusion between vice and disease, between natural instincts and corrupt passions, grow apace."

Mr. W. T. Stead, who is opposed to the *University Magazine* and *Free Review* in all its aspirations, political, social, and religious, writes in the *Review of Reviews* under the heading:—

"THE POLICE AND THE PRESS.

"SCOTLAND YARD CENSORSHIP.

"I have repeatedly been selected as the object of animadversion on the part of the *University Magazine* because of my dislike of the literature and doctrines under discussion. That renders it all the more necessary for me to say that, so far as the facts have been stated to me, the action of the police seems calculated to bring into the gravest discredit the cause in which they are supposed to be acting. Dr. Ellis's book was not proposed to be sold for general circulation. Every copy supplied to booksellers was labelled 'This book is a scientific work, intended for medical men, lawyers, and teachers. It should not be placed in the hands of the general public.' I have read the book, and no person who reads it with an impartial mind could come to the conclusion that it was published with the intention of corrupting the morals of Her Majesty's subjects. The author displays a painstaking desire to ascertain the scientific truth concerning certain obscure problems which lie at the base of grave questions of criminal jurisprudence.

"It may be alleged that such problems should not be discussed, and that the whole question should be buried in impenetrable silence. The answer to this is that if the legislator makes one theory of the Psychology of Sex the basis for passing a law which sends citizens to penal servitude, it is impossible to shut out such a theory from public discussion. Dr. Ellis's inquiry goes to the very root of the theory upon which one section of the Criminal Law Amendment Act is based, and

if the conclusions at which he arrives are sound the principle of that legislation is unsound, and will have to be modified, for the same reason that capital punishment is never enforced upon persons of disordered minds. This may be said quite apart from the general contention of the medical profession, which is that, if the sale of such a book as Dr. Ellis's justifies the wholesale seizure of every book on the premises of any bookseller, the sale of medical works will be very much restricted, and no one will be able to sell any medical literature without running the risk of a criminal prosecution and the seizure of all his goods. The subject is an extremely unpleasant one. The problem involved is obscure, but the mischief accruing from the publicity occasioned by the prosecution immensely outweighs whatever gain it might be imagined could accrue from a successful prosecution. Scotland Yard has been entrusted by the community with very extended powers for the suppression of obscene literature, but nothing will do more to jeopardise this necessary, and as a whole wisely exercised, prerogative than the sudden extension of the police censorship to the realm of scientific discussion."

From *Reynolds's Newspaper* :—

"LIBERTY OF THE PRESS.

"HOME OFFICE PROSECUTION.

"THE NEW CENSORSHIP.

"BY W. M. THOMPSON

"(BARRISTER-AT-LAW.)

"It is not for a moment to be supposed that the prosecution of Mr. George Bedborough, a bookseller, for selling a copy of Dr. Havelock Ellis's book *Sexual Inversion* was instituted on the authority of the half-pay officers—unqualified for the task either by education, or intellectual distinction—who, in subordination to the Home Office, direct affairs at Scotland Yard. The Metropolitan Police are a Government force. They would take no serious step without consulting their chief Sir M. White-Ridley, and he, again, in a matter of such moment as the liberty of publication, must have consulted his colleagues in the Cabinet. Lord Salisbury, therefore, is responsible for this prosecution, although with characteristic cowardice he shrinks from including in the indictment the writer of the book.

"And the reason is obvious. Of Dr. Havelock Ellis's distinction in the scientific world nothing need be said. It is well known he is in the first rank in his special department. As editor of the *Walter Scott*

Contemporary Science Series (published at 3s. 6d. a volume), the nation owes him a deep debt of gratitude for bringing the results of the labours of our greatest men of thought and science home to the popular mind. Among that series we find such works as *The Evolution of Sex*, by Professor Patrick Geddes and J. Arthur Thomson; *Sanity and Insanity*, by Dr. C. Mercier; *The Village Community in Britain*, by G. L. Gomme; *The Origin of the Aryans*, by Dr. Isaac Taylor; and his own remarkable contribution to scientific criminology, *The Criminal*. Other contributors are Professor Geikie, Dr. Albert Moll (Berlin), Professor Jastrow (Wisconsin), and Mr. Sidney Webb. It is so much easier to proceed against an obscure bookseller, than against a man of world-wide reputation for learning and literary ability.

"But whatever may be the fate of Mr. Bedborough, the author of the book will be equally involved in it. We have here a repetition of the Government's policy in the matter of Jameson's filibustering expedition—the minor criminals were prosecuted, the chief offender, Rhodes, was allowed to escape.

"I have not seen Dr. Ellis's book, but I learn from the police court proceedings that it deals with the medical, mental, and physiological aspect of those increasingly growing sexual perversions to which the famous Jewish physician, Dr. Max Nordau, so frequently refers in his remarkable work on *Degeneration*. An evil has to be met. Dr. Ellis scientifically analyses the evil with the view of clearing the way towards a solution. That is what I understand to be the position. It will be for the jury to decide whether this is the case or not, and, if so, whether it has been done in a manner allowed by law.

"That a subject of this importance requires to be discussed in a decent, sober, scientific way no one can doubt who has read Professor Krafft-Ebing's great work, *Psychopathia Sexualis*, which has been translated into every European language, and may be ordered from a firm of English medical booksellers through a medical man. The recent case of Oscar Wilde, the aristocratic scandals in Cleveland Street, the perversities and practices known to exist in many boarding schools for girls, and, it may be said, in all the great public schools for boys, make this topic, repulsive as it is, a necessary branch of medical inquiry. The subject is not new; it is as old as the Old Testament—the story of Lot, to wit. What is new is the attempt to grapple with the evil on scientific grounds. Mayhew, the well-known writer, has left a record of his own experiences: 'For ourselves, we will frankly confess that at Westminster School, where we passed some seven years of our boyhood, such acts were daily perpetrated. And yet, if the scholars had been sent to the house of Correction, instead of Oxford or Cambridge, to complete their education, the country would now have seen many of our playmates working among the convicts in the dockyards rather than lending dignity to the Senate or honour to the Bench.'

"The accused man in this case is Mr. George Bedborough, who edited the *Adult*, the monthly journal of the Legitimation League. With one of the objects of that organisation any man of generous and

humane mind can have nothing but sympathy and approval—the legitimation of children born before the parents have entered into a legal contract. This is the present law in Scotland. It was the law of ancient Rome and has been adopted by many modern nations. No marriage rite, contract, or ceremony is prescribed in the Scriptures. There, indeed, polygamy seems to have been God-sanctioned, and in Genesis xx., 12, we find that Abraham's wife Sarah was his step-sister! 'And yet, indeed, she is my sister; she is the daughter of my father, but not of my mother; and she became my wife.'

THE LAW.

"That eminent criminal Judge, the late Justice Stephen, at page 105 of his *Digest of the Criminal Law*, submits that a person is justified in publishing obscene books, papers, prints, etc., if their publication is necessary or advantageous to the pursuit of science, literature, or art, or other objects of general interest. 'A man,' he says, 'might with perfect decency of expression, and in complete good faith, maintain doctrines as to marriage, the relation of the sexes, etc., which would be regarded as highly immoral by most people, and yet (I think) commit no crime.'

"The great jurist Bentham, in his *Principles of Morals and Legislation*, published by Macmillan, deprecates dealing with these offences, which he styles self-regarding, on the following, among other grounds:—

"(1) In individual instances it will often be questionable whether they are productive of any private mischief at all (because the person, who in general is most likely to be sensible to the mischief, if there is any—namely, the person whom it most affects, shows by his conduct that he is not sensible of it); secondary, they produce none.

"(2) They affect not any other individuals, unless by possibility in particular cases, and in a very slight and distant manner the whole state.

"(3) They admit not, therefore, of compensation nor of retaliation.

"(4) No person has naturally any peculiar interest to prosecute them; except in as far as in virtue of some connection he may have with the offender.

"(5) The mischief they produce is apt to be inobvious, and in general more questionable than that of any of the other classes.

"(5) They are however apt, many of them, to be more obnoxious to the censure of the world than public offences, owing to the influence of two false principles—the principle of asceticism, and the principle of antipathy.

"(6) Among the inducements to punish them, *antipathy against the offender* is apt to have a greater share than sympathy for the public."

From the *Sketch*, November 2nd, 1898:—

“IS HE AN OBSCENE WRITER?”

“Is Dr. Havelock Ellis an obscene writer? That is the question which must be decided by a British jury at the Old Bailey during the present Sessions. That is to say, the tinker, the tailor, the candlestick-maker—most worthy citizens, no doubt—will sit in judgment upon a scientific work which has been welcomed and commended by scientists in France, Germany, and America, as well as by the English medical journals. Dr. Havelock Ellis has made it his life-study to trace the effects of heredity and habits upon crime and insanity, and his book, *The Criminal*, if properly studied and understood, would revolutionise our present system of endeavouring to repress crime instead of curing it. In addition to his services in seeking to point out the causes which tend to overcrowd the lunatic asylums and, to a large extent, the prisons, Dr. Havelock Ellis has attained an important position in English literature, and has at various times collaborated with Mr. Swinburne, Mr. Gosse, Mr. Arthur Symonds, Mr. Ernest Rhys, and others. He is also the editor of the well-known ‘Contemporary Science Series,’ and is a regular contributor to medico-legal journals in the Old and New Worlds. He has been made an honorary member of the Chicago Academy of Medicine, and was elected Vice-President of the International Medico-Legal Congress of 1895.

“Rather more than a year ago, Dr. Ellis published the first volume of his *Studies in the Psychology of Sex*, in which work he had the able assistance of Mr. John Addington Symonds. This book was the natural continuation and extension of his previous works, and was openly advertised and as openly sold by the leading booksellers at a price which placed it out of the reach of the ordinary seeker after prurient literature. In May last, however, the Scotland Yard authorities determined to stop the sale of the book, and, armed with the necessary warrants, pounced upon an obscure bookseller named George Bedborough, instead of indicting the principal offenders (?)—the author, the publishers, and the printers, as is usually done in such cases. When the charge came before Sir John Bridge at Bow Street Police Court, Dr. Havelock Ellis was present, and through his solicitor stated that he was quite prepared to accept all the responsibilities of authorship of the incriminated book, but that offer was not accepted. For months, therefore, a charge, the like of which would be altogether impossible in any other civilised country, has been hanging over the head of Mr. Bedborough, who has, however, been supported by an influential Free Press Defence Committee, which numbers among its members the following ladies and gentlemen:—Mr. Grant Allen, Mr. Robert Buchanan, Mr. Herbert Burrows, Mrs. Mona Caird, Mr. Edward Carpenter, Mr. Walter Crane, Dr. Helen Densmore, Mr. A. E. Fletcher, Mr. Frank Harris, Miss Amy C. Morant, Mr. George Moore, Mr. William Platt, Mr. J. M. Robertson, Mr. Henry S. Salt, Mr. William Sharp, Mr. George Bernard Shaw, Mr. W. M. Thompson, and Dr. T. M. Watt. This Committee has provided legal assistance, and has arranged for Mr. Horace Avory to

undertake the defence. Application was made for a writ of *certiorari*, in order that the case might be removed to the Court of Queen's Bench, where it would have been tried before a special jury; but this application was not successful, and the question, which is one bristling with difficult technicalities, will be fought out before a Common Jury, which is perhaps one of the most incompetent tribunals for such issues. The opinion of Mr. Robert Buchanan with reference to the prosecution is worth quoting. He says that 'to insult a man of science and to punish the unfortunate publisher for carrying out what is, in point of fact, a noble bit of work, done in the interests of suffering humanity, is more worthy of savages than of sane men living in the nineteenth century.'"

From the *Lancet*, November 18th, 1898:—

"The result of this trial places the person or persons to whom in the Recorder's opinion greater blame should be attached in a very awkward position. There is, for example, the author of the book. The trial closes his mouth and prevents him from making any defence other than the unsatisfactory method of writing to the newspapers or publishing an Apologia, and Mr. Havelock Ellis, the writer in question, would seem to be obviously indicated in the Recorder's speech. His book is the first of a series of studies in the psychology of sex and deals with a phase of the question which we must all admit to exist—namely, sexual inversion. It is allowed that this subject touches the very lowest depths to which humanity has fallen. But for all that it is a subject which cannot be ignored and one which is not made any less powerful for ill by the pretence that there is no such thing. But while we admit that the subject of sexual inversion has its proper claims for discussion we are very clear as to the propriety of limiting that discussion to persons of particular attainments."

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"What constitutes indecent literature? Is a book indecent because it deals with an indecent subject? Surely there is no reasonable person who will say 'Yes.' A book written solely in a spirit of scientific inquiry into a subject which, though odious in itself, has yet to be faced cannot possibly be included under the head of indecent literature. But such a book may become indecent if offered for sale to the general public with a wrong motive. Bedborough was, we suppose, held by the Recorder to be guiltless of wrong motive or he would have been punished. But why this wrong motive should be imputed to the author we cannot guess; while if no such imputation was intended the reference to the more guilty persons who went scot free is meaningless. Mr. Havelock Ellis seems to us to have been badly treated in the matter and unfortunate in his publisher, for Bedborough, it must be remembered, pleaded guilty to the issue of two other indecent works with which the author of 'Sexual Inversion' had no connection whatever. The moral of the story for scientific writers, who must often publish what would be obscene if appearing in doubtful channels or confided to dirty hands, is obvious. It is—be careful of the publisher."

From the *British Medical Journal* :—

“It is a little difficult to comment upon this case, because all the facts have not been brought out in evidence. Mr. Havelock Ellis, who is the author of the work mentioned in the police-court proceedings, is a member of the medical profession, and we have examined his book. It treats of a subject which is to most persons extremely disagreeable, but, so far as we have been able to judge, we cannot agree with the Recorder that the subject has not been dealt with in a scientific manner. Further, so far as we are aware, it is true that no attempt has been made to advertise the book in any general way or to expose it for sale otherwise than in a technical sense. There is certainly nothing about the book itself, either in its appearance or in the manner in which the subject is treated to pander to the prurient mind, although the subject of the book is of course one which would lend itself to such treatment. The subject, as we have said, is extremely disagreeable, but is one of those unpleasant matters with which members of the medical profession should have some acquaintance. From correspondence submitted to us in print by Mr. Havelock Ellis, it would appear that the scientific character of the work in question is recognised by many eminent alienist physicians in this country. Dr. Conolly Norman sums up the true view with regard to a work of this kind in the following passage of a letter which we are informed he has addressed to the author :—

“‘In its relation to insanity, to degeneration, and to the neurotic state, the subject of sexual inversion has much medical interest; in its relation to crime it has much medico-legal interest. It is, therefore, a matter which must be discussed and written about.’”

Edward Carpenter, in the *Saturday Review*, November 8th, 1898 :—

“That Mr. Havelock Ellis, by the outcome of the Bedborough case, should be left with a slur upon his name and book is a gross scandal.

“There is hardly a woman, especially among the well-to-do classes, who could not tell an indignant tale of grief and wrong arising to her in her earlier days from the non-discussion of sexual problems. Some ladies (all honour to them!), who were present in the hearing of the Bedborough case at Bow Street, were as good as insulted by the magistrate because they refused to leave the Court. Yet who more fit to understand and consider these difficult problems than the mothers or future mothers of our children? But perhaps the motive for their presence did not dawn upon the magisterial mind.

“Our schools, as is well known, are full of phenomena connected with sexual inversion. The boys are corrupted and lose their purity of mind at an early age; parents are ignorant of what goes on; masters are in despair; every one is silent; a grim hush reigns; evils are hinted at, but no one offers any help. But why, in the name of all that is sane, such conduct?

“Surely a book dealing decently, straightforwardly, and scientifically with this subject is as much wanted as anything in England to-day. Mr.

Havelock Ellis has written such a book. Every schoolmaster in the country ought to be made to pass an examination in it. It should be in the hands of any parent who cares to understand the character, the needs, the temptations of his child; or, indeed, of any judge who wants to act justly; for, as Mr. Stead has pointed out, the fact that a portion of our criminal law is founded upon certain theories of sexual psychology makes the discussion of those theories imperative. Instead of that the book is proscribed and written down 'obscene' by the official Bumble. Could the force of folly further go?

"That such a book may occasionally get into what is called 'the wrong hands' may be allowed; but by no process of argument can this be construed into a reason against its publication, since it would equally apply to any special medical work. It only forms a reason for attack by that party which, ostrich-like, can see no other way of meeting a difficulty than by refusing to look at it."

From the *Critic*, November 12th, 1898:—

"THAT BLESSED WORD 'MORALITY.'"

"Anything more fiendishly unfair to a man of science than the slur cast, by the mysterious conclusion of the Bedborough trial, upon the author of *Sexual Inversion* it would be impossible to conceive. I am not concerned to defend Dr. Ellis. He is himself more than capable of that task; and he was, and is, fully prepared to dispose of any unsavoury suggestion arising from the prosecution of one amongst several sellers of his book. The terms of surrender accepted by Bedborough do little credit to his courage, if they do not touch his honour. Were that not an impossible conception, one might reasonably suspect collusion between prisoner and police; and the Free Press Defence Committee, so completely befooled by Bedborough, will do well to clear the inner mystery of this questionable business—if they can. Its relation to the *Adult*, from which publication Bedborough has consented to remove his name, despite the unjust inferences to which this course may easily lead, is—in degree at least—different to its bearing on Dr. Ellis's volume. One may fairly doubt the wisdom of Mr. Seymour's publication—with its 'free discussion' of certain delicate questions—being sold broadcast to the first buyer, and yet protest against police prejudice being created against a purely scientific work, of permanent value to medical men and students.

"It is to be hoped that, if the Recorder's remark that 'this sort of thing will not be tolerated in this country' was meant to affect Dr. Ellis's work, the right of publication will be brought to speedy trial. Who, may we ask, is 'the really responsible person who received all the profits from the sale;' and whom the police have promised to prosecute? The Defence Committee should see that this warrant is executed as promptly as may be. The police have gone so far with this matter that they must now see it through, if publicity can force to a fair and definite test the question of freedom to publish. It is a subject of intense interest to every journalist, littérateur, scientist, publisher, and bookseller, not to mention the average studious reader."

From the *Cologne Gazette* (translated):—

“PROSECUTION OF SCIENTIFIC WORKS IN GREAT BRITAIN.

“Hypocrites and prudes in old England are on the war-path again. Not against music halls and theatres but against scientific, medical, and anthropological works is their zeal directed this time, and very successfully too.

“The laughter of the civilised world does not dishearten these fanatics, if they hear it. They suffer from a peculiar kind of mania which in this epidemic form is only to be found in England. But it would be a gross libel on the great English nation to state that the majority of educated Englishmen approves of these antics. Yes, the influence and power of the prudes must not be underrated, if we take into consideration that the police is at their disposal to suppress such important scientific works as Dr. Havelock Ellis’s *Studies in the Psychology of Sex*.

“Havelock Ellis’s name is so well known all over the world as the author of *The Criminal* and *Man and Woman*, and as a scientist of eminence and undoubted integrity, that it seems superfluous to discuss the contents of the incriminated book.

“A bookseller in London who, like hundred others, sold this work, one day in the year 1898 was arrested, imprisoned, and intimidated to plead guilty:

“to being a person of a wicked and depraved mind and disposition, and unlawfully and wickedly devising, contriving, and intending, to vitiate and corrupt the morals of the liege subjects of our Lady the Queen, to debauch and poison the minds of divers of the liege subjects of our Lady the Queen, and to create in them disordered and lustful desires, and to bring the said liege subjects into a state of wickedness, lewdness, and debauchery, etc., etc.

“Who is laughing? Silence!

“In *Culturstaaen* (cultured states), as a rule, the nation is proud of the scientific achievements of medical and anthropological authorities, but in England many prefer the Bible as a medical text-book to Lord Lister’s works, and *Christian Science* the newest hocus-pocus to medical practice in general.

“Amongst the many hundreds of poor victims of the art of Christian Science there was lately a well known literary man (Harold Frederic). A prosecution for manslaughter was started but soon abandoned or suppressed, perhaps by the same authority who sanctioned the prosecution of Dr. Havelock Ellis’s works. It is a truly melancholy fact that in England the police, and even an English judge, can be had to assist in the suppression of scientific books, and it is rumoured in the metropolis that the next attack will be directed against Professor Krafft-Ebing’s *Psychopathia Sexualis*, and against Westermarck’s well known work, *The History of Human Marriage*. We will next hear that the British Museum library has been searched for the works of Westphal, Moll, Charcot, and Virchow, and that Darwin’s great works will be brought before an Old Bailey jury. What a glorious prospect!

“If the government does not command a stentorious *Halt* (stop), one day in the near future the tinker, the tailor, the candle-stick maker, presided over by the Recorder of London, will sit in judgment over the *Origin of Species* and the *Descent of Man*.

"The spinster who, having been informed by a friend that her canary was of the male sex, henceforth covered his cage with a dark cloth each time she was exhibiting her virginal form before the dressing glass, and the very respectable matron who provided the Venus of Milo in her artist-husband's studio with a petticoat, skirt and bodice, should both be consulted by the English Home Secretary when instructions are given to the police for the suppression of scientific works. The rest may be left to the Recorder of London and to an Old Bailey jury as the most competent judges in the realm of Anthropology and Physiology."

From the *Alienist and Neurologist*, January, 1899:—

"THE BEDBOROUGH TRIAL.

"A very interesting and important subject has lately come up in England through the Bedborough trial in which Havelock Ellis's great book *Sexual Inversion* was arraigned as an obscene offence against public morals through the indictment of the bookseller, Mr. Bedborough.

"The case excited much interest in medico-scientific and philanthropic circles in England. There exists better reason for arraignment of the newspapers for publishing the court proceedings in which sexual pervers figure, especially such cases as Oscar Wilde, than the seller of such a book as *Sexual Inversion*.

"It is time that the law should provide for a 'commissio de inversione sexuelle inquirendo' or 'inquirendo de degeneratione morbosa' as well as a 'commissio de lunatico inquirendo' in certain cases, for neuropsychic degeneracy displays itself as plainly in the perverted sexual phases of the morals as in the distorted features of the intellectual life alone, perverting both mind and emotions as Havelock Ellis, Krafft-Ebing, and others have so clearly shown. But as the prophets and reformers were stoned for telling unwelcome and unflattering truth, and scientists have been likewise persecuted, for example, Galileo and Jenner, so the revelations of truth in a book like that of Havelock Ellis, imperil those who have to do with them. Thus the history of human persecution repeats itself in the enlightened 'fin de siècle' of the nineteenth century. But the blood of the martyrs of science is the seed of progress for humanity."

From the *Medical Record*, February 25th, 1899:—

"THE HYSTERIA OF HYPOCRISY.

"More subtle than the effect of absinthe, and more insidious than the contagion of small-pox, is the instinct to reform, not one's self, but others. The heart of man—of the other man—is inconceivably wicked; the ways of the world are hopelessly annoying to those too good to live in it; therefore it is unquestionably the duty of those who have no sins of their own to prod the consciences of others and throw the strong light of their illuminating piety upon the dark corners of life.

"It matters not what the subject of the reform may be, provided the reformers are sufficiently ignorant of the sins they would cope with, and are possessed with that inward fervour which rises superior to facts and

takes no heed of natural laws. The fascination of being a power for good, and of wearing a badge and paying a small annual due, is characteristic of the present stage of this hysterical craving for reform, whether it be a tea-meeting of New England spinsters to discuss the suppression of suttee in India, or a congress of temperance ladies to abolish the saloon; the enthusiasm is in direct proportion to the lack of knowledge of existing conditions.

“Fortunately in this country this enthusiasm expends itself for the most part on subjects not wholly concerned with vital questions, such as the hunting up of revolutionary ancestors and the providing of stools for shop-girls; but of recent years in England, where there is a leisure class, old women of both sexes have abandoned themselves with whole-souled fervour to the delights of the chase; and when the preserves are emptied of big vices, they must needs beat the bush for some new game. It is bad enough when the hysterical conscience gets on the scent, as when a Darwin or a Huxley and a Spencer are religiously boycotted; but it is a little too bad when the good old English law is split up into a thousand instruments of torture and whittled to a fine point for moral reforms. For instance, the fostering of a kindly spirit toward stray cats and overworked horses was a legitimate expression of humaneness, but the attitude of the Society for the Prevention of Cruelty to Animals when it objects to vivisectioning a few chloroformed puppies, for the sake of learning how to relieve human suffering, is an excellent example of this hysteria, and the laws against vivisection, as well as the famous conscience clause in the vaccination act, are enough to make justice ‘throw up the position.’

“Now moral England is by the ears over its favourite reform. For years the pure in heart have been trying to make others pure by wearing white ribbons in their buttonholes; but recently Mr. Havelock Ellis, who has for twenty years or more been studying some of the causes of sexual perversion, has published a careful scientific statement of facts which leading physicians and alienists welcome as an important contribution to their studies. But the moralists of England never dreamed that there were such shocking things extant. It was all very well to provide respectable lodging-houses for soldiers and sailors and occasionally make a raid upon an improper resort, but such deeds of decency paled before the excitement of suppressing these facts.

“What mattered it that perverted instincts were being reproduced in the children of these debased human beings? What mattered it that the tainted ancestry and unhygienic surroundings and the cramped quarters of the poor were responsible for some of such conditions? The fact only was apparent to the reformers, who were sensitive ladies and very moral gentlemen, that the one way to preserve their own purity and ignorance was to suppress the book. Accordingly by the same law that abolished the penny dreadfuls and the publication of erotic and sensual literature this scientific work was suppressed, making its sale illegal. It is not because we think that Mr. Havelock Ellis’s work would have redeemed London from its social sins that makes us deplore the good Englishman’s action; it is the pity of the fact that as soon as an able man applies his research

to the physical causes of moral disease with as much care as if it were a bodily plague, he should be so rudely, sensationally, and unreasonably stopped by the very people whose end he was best serving.

“The freemen of Europe, who are studying the same questions connected with crime and disease, have stretched out compassionate hands to their fettered brother; and we of this country, who hope to work out some of the problems he suggests, cordially encourage him to struggle out of this tangle of white ribbons and phylacteries.”

From the *Medico-Legal Journal*, December, 1898:—

“DR. HAVELOCK ELLIS.

“We learn with regret, which will, we feel, be shared by all the scientific world, that this gifted author has decided not to publish, in England, his great work on *Sexual Inversion*, or the completion of his series of announced volumes on the Psychology of the Sex, of which only the initial volume has appeared.

“This action has been due to the conduct of his publisher, Mr. George Bedborough, who was indicted for the selling of the work as ‘wicked, lewd, impure, scandalous, and obscene,’ and who, although Mr. Ellis had retained eminent counsel and raised a considerable sum of money to provide for the defence, shortly before the trial came on, last October, without consulting those whose support he had accepted, plead guilty to a part of the charge, and Mr. Ellis and his counsel were unable to obtain even a hearing upon the trial; and the defendant, in pursuance of an arrangement made with the prosecuting counsel and the Recorder (Sir Charles Hall), was discharged upon his own recognisances.

“It is incredible that such scandalous conduct, on the part of the authorities and the Recorder, should pass unnoticed and unrebuked.

“The animus of the Recorder might be in doubt, if it were not for his language on the occasion. He said from the bench to the prisoner: ‘You might at the outset, perhaps, have been gulled into the belief that somebody might say this was a scientific book. But it is impossible for anybody with a head on his shoulders, to open the book without seeing that it is a pretence and a sham, and that it is merely entered into for the purpose of selling this filthy publication.’

“This officer has never been credited with being a person of any scientific attainments. That his education upon such questions has been seriously neglected is established by his own testimony.

“It is doubtful if any scientific authority on the continents of Europe or America, or in the British Islands, would agree with the language he used. He has, by an illegal and reprehensible abuse of his position, consented to the substantial release of the publisher, without punishment, whom he believed guilty of a crime, and stabbed in the back, and without any excuse or opportunity of being heard, one of the most brilliant of the British writers, of his time and our era, on subjects connected with criminal anthropology; and no matter what his past career

or character may have been, he will receive, as he justly deserves, the contempt of the whole scientific world.

"The honourable career of Mr. Havelock Ellis cannot be seriously compromised by such an unmerited assault from the bench, and it is a marvel how our English cousins, with their love of fair play, would submit to such aspersions upon the motives of a gentleman of Mr. Ellis's character.

"There can be no doubt that Mr. Ellis made a serious mistake in selecting his publisher. Mr. Bedborough may have been a dealer in obscene books, and a *persona non gratiâ* with the Court or the authorities. It is stated that he has published a magazine devoted to the propaganda of unconventional views upon marriage, and the book of Mr. Ellis may have been, in the judgment of the authorities and the Recorder, tarred with the same stick with Mr. Bedborough's other publications—we do not know. Even were this so, (which was, as we think, a grave error on the part of Mr. Ellis), it would not change the character of the unjust accusation made against the work by the Recorder, but would bear in mitigation and explanation of the judicial utterances; but the lesson to Mr. Ellis, and to writers generally, would remain, that authors, as well as men, are known and judged by the company they keep, and Mr. Ellis may, like poor Tray, have been cudgelled by reason of his unfortunate environment."

From the *Journal of the American Medical Association*, January 21st, 1899:—

"THE BEDBOROUGH TRIAL.

"Dr. Havelock Ellis of London is a lawyer as well as a trained medical scientific man. He is the author and compiler of many valuable works on medico-legal topics. His papers on criminality and his studies of sociologic questions have given him a wide reputation in both this country and in Europe, and he published in 1894 a remarkable work, *On Man and Woman*, which was a pioneer study on the psychologic and anthropologic differences of the sexes. This was followed in 1897 by the first volume of a series of works on the general study of the psychology of sex. This work was called *Sexual Inversion*, and was confined to the physiology and psychology of the normal sex impulse. It was translated into German and published at Leipsic, and was read with great interest by jurists and criminal anthropologists. Soon afterward it appeared in London and was highly praised for its conservative, scientific tone. Finally, in May last, one George Bedborough, a bookseller, was arrested for having sold a copy of this book to a detective, and was charged with publishing and circulating an indecent, obscene book. He was speedily committed for trial and had some difficulty getting liberated on bail, which was fixed at the enormous sum of \$2,500. The injustice of this procedure, in holding the poor dealer accountable when the author and publisher were well-known prominent men, indicated a confused idea of the prosecution. The author and publisher prepared to make a sharp

defence, and had accumulated the testimony of most of the leading medical scientists and foremost men in Great Britain to show that the work was no more obscene than the ordinary text-books on obstetrics. Over a hundred journalists had reviewed the work and had not discovered the least impropriety in its statements.

"The trial took place in October last, and the dealer, fearing great loss, pleaded guilty to the principal charge and asked the mercy of the court. The judge with a great show of words, found him guilty and released him on heavy bail bonds to appear when called for to be sentenced. The author and publisher could not be heard by counsel or otherwise, and the judge asserted that the 'strong arm of the law should be used to stop all such efforts to break up the morals of the English public.'

"The publicity of this trial roused up a wide-spread interest to see the work, but the author and publisher refused to sell any more copies. The few which were in the hands of the specialists and journalists were brought out and reviewed again with great praise. Both the *British Medical Journal*, the *Lancet*, and the *Medical News*, declare that it is a strictly scientific work and did not pander to morbid tastes. The editors of the *Journal of Medical Science* commend the treatment of the subject in this work for its high tone and medico-legal interest. Many foreign celebrities support the author, and the police judge and his friends have raised a storm of indignation which they little expected. The author is so thoroughly disgusted that he has decided to have the other volumes of the work published in this country, and the plates of the condemned book will be sent to New York and put into use at once. The narrow-minded zealots made a blunder which has been turned to a great profit by the publishers in many ways.

"The assumption of judges on the scientific nature of works of medicine, and the blind zeal of ardent reformers, are a study in morbid psychology, of great interest. In contrast to this trial, some years ago a Philadelphia physician was arrested for writing an obscene book of advice to married people. The judge sent the work to a noted physician, who declared the work to be correct and scientific. The case was dismissed, but the prosecutor had a dealer arrested on the same charge. This was also dismissed by another judge. The agent of a society who made the charge wrote inflammatory articles in the press on the professions of law and medicine pandering to crime.

"In the Bedborough case, the timidity of the dealer was an error which gives encouragement to the foolish efforts of unwise persons who would correct evils where they do not exist. The circulation of Mr. Ellis's work in this country may rouse up a similar prosecution, but it is to be hoped that wiser counsels may prevail, and the merits of the work be made clear to all. The unrestrained publication of the works of Krafft-Ebing and others in this country would seem to afford a precedent, and it may be said here that the treatment of the delicate subjects involved by Mr. Ellis is altogether less open to objection than that of some of the other works above mentioned."

From the *American Journal of Insanity*:—

“THE BEDBOROUGH TRIAL.

“There seems to be the world over a tacit conspiracy to adopt the ostrich method of exploitation where the sexual passion is concerned. If here and there a d’Annunzio apotheosises the carnal and misdirects his brilliant talents to the sanctification of lust, we find in the bold license of the prose-poet of Latin race but the proving and extreme exception to the rule. That there is much purblind hypocrisy, even an obscene puritanism, in the conventional attitude towards this strongest of all instincts cannot be gainsaid. ‘Naked and they were not ashamed’ and ‘to the pure all things are pure’ are seemingly not the ideal of modesty to which man would strive or subscribe, and ‘honi soit qui mal y pense’ no longer affords an ægis against the cant and obloquy of overnice people who warm themselves snugly by the fire of their own greater purity. But even thin-skinned purists, however much they may upturn the eye when sexual matters are discussed in general literature, have, at least in this country, conceded to the scientist the right of scientific research in every field of inquiry, and with it the utmost freedom of speech in publishing results. ‘Then know, that so far to distrust the judgment and the honesty of one who hath but a common repute in learning, and never yet offended, as not to count him fit to print his mind without a tutor and examiner, lest he shall drop a schism or something of corruption, is the greatest displeasure and indignity to a free and knowing spirit that can be put upon him.’* ”

“This thought is suggested by the extraordinary straits in which a respected British scientist of world-wide reputation finds himself to-day. On May 31st, 1898, Mr. George Bedborough was arrested for selling to a disguised detective a copy of Havelock Ellis’s book, *Sexual Inversion*. He was charged before Sir John Bridge at the Bow Street Police Court with ‘publishing an obscene libel’ (in other words, circulating an indecent work) ‘with the intention of corrupting the morals of Her Majesty’s subjects.’ Mr. Bedborough was simply a seller of the book and in no way responsible for its production. The evidence showed that the sale was effected in a private house, and that neither the book in question, nor any other books, were exposed for sale, or announced for sale, in the window or elsewhere. Says the distinguished author of the book, ‘No commercial transaction could conveniently be effected with less publicity. So that if the sale of my book could be regarded as improper under such circumstances, there were practically no circumstances under which it could well be regarded as proper.’ Thus, although Mr. Havelock Ellis was not technically a defendant, the effect of the prosecution was calculated to be as fatal to the book as though the police had proceeded directly against him. When the indictment was finally issued, it appeared that the whole book from the first page to the last, ‘and every line in such pages,’ was charged as ‘wicked, lewd, impure, scandalous, and obscene.’ ”

“As must be well known to the readers of this journal, Mr. Ellis has for many years devoted himself with conscientious thoroughness and singleness of purpose to the psychology of sex as his life’s work. *Sexual*

* *Milton’s Arcopagitica*, quoted by Mr. Havelock Ellis in *A Note on the Bedborough Trial*. London: The University Press, Limited. 1898.

Inversion is the first of a series of *Studies* that will comprise five or six volumes, dealing in the main with the *normal* sex impulse. The incriminated passages, when read in court, proved to be simple statements of fact, Mr. Ellis's responsibility for them lying merely in this, that he judged them to contain in bald, uncoloured language the minimum of definite physical fact required in such a book if it is to possess any serious scientific value at all. The trial took place on October 31st at the Old Bailey. Unfortunately, Mr. Bedborough elected to ignore the question of principle, and, in order to obtain the best terms for himself, plead guilty to a part of the charge. While the book was the real subject of the trial, and publisher and author were represented by counsel, these gentlemen, having no standing in court, found themselves in the singular predicament of having no legal opportunity to be heard. The judge, Sir Charles Hall, delivered himself thus: 'You might at the outset perhaps have been gulled into the belief that somebody might say that this was a scientific book. But it is impossible for anybody with a head on his shoulders to open the book without seeing that it is a pretence and a sham, and that it is merely entered into for the purpose of selling this filthy publication.' And having thus interposed the purity of his ermine to save Her Majesty's lieges from pollution, the judge released the defendant on his own recognisances. One rubs his eyes on reading, reads the astounding page again, and asks, Can this be true? And the upshot of it all is that Mr. Havelock Ellis has decided not to publish the remaining volumes of his *Studies* in England. We hope this means that he will find in America the generous reception of a less shackled press and less bigoted public, and be here protected from the insults of a pusillanimous judiciary, although we do not forget that we have our own prudish persecutors who, taking the name of decency in vain, have before now themselves become obscene in their trumped-up charges against honest men. In his *Note on the Bedborough Trial*, from which these facts are gathered, the outraged author shows a temper as admirable as that of his persecutors is mean. His concluding words have the true scientific ring, albeit discovering a soul bleeding from a cruel wound, and should be as coals of fire on the heads of those who presumed in free England to exercise an impertinent censorship over a scientific publication: 'To wrestle in the public arena for freedom of speech is a noble task which may worthily be undertaken by any man who can devote to it the best energies of his life. It is not, however, a task which I have ever contemplated. I am a student, and my path has long been marked out. I may be forced to pursue it under unfavourable conditions, but I do not intend that any consideration shall induce me to swerve from it, nor do I intend to injure my work or distort my vision of life by entering upon any struggle. The pursuit of the martyr's crown is not favourable to the critical and dispassionate investigation of complicated problems. A student of nature, of men, of books, may dispense with wealth or position, he cannot dispense with quietness and serenity. I insist on doing my own work in my own way, and cannot accept conditions which make this work virtually impossible. Certainly I regret that my own country should be almost alone in refusing to me the condition of reasonable intellectual freedom. I regret it the more since I deal with the facts of English life, and prefer to address English

people. But I must leave to others the task of obtaining the reasonable freedom that I am unable to attain.'

"It is this journal's privilege to send sympathetic greeting to Mr. Havelock Ellis across seas. It bids him be of good cheer, and congratulate himself upon what he has accomplished by this painful trial in vindication of free speech and as an educator of public opinion."

From *Science Siftings*, December 3rd, 1898:—

"FREEDOM OF SPEECH.

"In a recent issue we commented on the Bedborough case from the view-point of a contemporary. We have now read Dr. Havelock Ellis's book, which forms the first volume of *Studies in the Psychology of Sex*, and we are able to express an independent opinion. We consider that the greatest harm would be effected were this book made accessible to the public; and we consider that infinitely more public harm would be done were it made inaccessible to scientific and legal readers. Legislators have a theory concerning the psychology of sex which, as Mr. Stead has already said, is the basis of a law for sending citizens to penal servitude. Surely, then, the study of the subject in the interest of sound law and freedom should be encouraged! No merely puritanical considerations should be permitted to weigh where the liberty of the subject or speech are concerned."

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"We do not hesitate to say that arrant Puritanism alone is here endeavouring to repress a work of the highest import to those who have the care of the insane, degenerate, and neurotic at heart; as well as to those who take an intelligent interest in the future welfare of the human race. As it is, Dr. Ellis will have to publish abroad in future, for no other country possesses such absurd æsthetic laws. The Bedborough case proves nothing in itself. The cash was forthcoming for the defence, but the defendant unfortunately preferred to plead guilty, having, we are told, the assurance of the prosecution that he would then only be 'bound over.' The police evidently did not care to know the real law on the subject. The question of the liberty of literature and speech has yet to be fought, and we hope in the interests of individual freedom that the fight will not long be deferred."

The *Canadian Journal of Medicine*, March, 1899, writes:—

"That so immaculate a community as the one referred to should first learn of good and evil at this late day pathetically suggests 'Paradise Lost,' and one could almost shed a sympathetic tear as he contemplates the vestal innocence, thus rudely smirched, of a people among whom vice (and hypocrisy) are known to be altogether absent. The deliverance of the judge at this celebrated Bedborough trial suggests, on the other hand, by its insolence, the sixteenth century; by its stupidity, the fifteenth; by its ignorance, the fourteenth; and by the combined intelligence of the whole, the immortal 'Dunciad,' in which the name of Sir Charles Hall might with great propriety be enshrined. But to dwell longer upon such a pitiable spectacle of prejudice, tyranny and intolerance is an indignity to Havelock Ellis, an indignity to science, and an indignity to the liberty of thought of the twentieth century."

Geoffrey Mortimer, in an article, "Reticence and Prurience, a note on a recent prosecution," says:—

"This 'central problem' of sex, as Mr. Havelock Ellis calls it, is one that is always with us; the most palpable, vital, and intimate interests are bound up with it. Once revered as holy, sex has become a word joined to shame, a subject associated with diseases, and abandoned to the exclusive examination of doctors, a theme dismissed with the pale dread of the prude, and among the coarse a source of more brutal jesting and sheer levity than any other topic. And we need not wonder. Will the man of ordinary mould speak sanely, openly, and decently of his body when he is still taught by implication that it is 'a fuliginous sink,' 'vile,' 'animal,' and 'unclean'? We have lost the purity of simplicity of thought and speech upon emotions and acts as beautiful and natural as the singing of birds and the blossoming of flowers; and when it is needful to speak of them, we bate our breath and hang our heads in shame.

"Are not prurience and indecency the corollaries of the pruderies and reticences? Surround any subject with profound mystery, forbid it altogether, or at most permit its discussion amongst a few initiates, and you inevitably arouse that species of curiosity that expresses itself in a reaction of flippancy and vulgarity. The curiosity at its outset in childhood, so perfectly wholesome and normal, may become a habit of scientific inquiry, or it may reach the stage of putrescence as in the case of the pornographer or the maniac who discovers phallic signs in every familiar object, and a lascivious suggestiveness in the chaste speech of the innocent maiden. And here we have broadly the distinction between a healthy moral attitude of curiosity, and the demoralised, banal curiosity which we define as prurient and morbid. The sane desire for enlightenment we do well to encourage by every judicious means; the insane habit of lewd-peering with a snigger should be in every way discountenanced and condemned. But to place a ban upon curiosity because the instinct is sometimes perverted, is surely the most egregious folly, nay, more than that, a veritable sin against human-kind. Shall we proscribe the Bible, and Shakespere, and Milton because a certain number of the community search the pages of these classics for the erotic passages which they contain?

"Every good thing is abused, but the abuse does not affect the value of the thing itself. Our solemnly mysterious reticence engenders prurience, and aghast at prurience, we counsel still greater reticence, and even call in the aid of the police to assist us. There cannot be a surer method of perpetuating that which should be remedied and gradually destroyed. So childishly inadequate are our opinions upon this matter that we question the very motives of wise public teachers who bring sincerity as a sanative to scour our Augean stables, and the fire of truth to burn 'the unclean straw' of our intellectual habits. We are in the main, for the present, unable to distinguish between the keen, open curiosity of dispassionate science and the drivelling uncleanness and the bawdies of the smoking room. The humanist inquirer who makes

known to the earnest-minded the facts of the normal and abnormal sexual passion, with no other end in view save that of fostering nobler, purer living, finds himself classed with the miserable wastrels who pander to the horde of the prurient. At the very best such a teacher only escapes with an accusation of morbid curiosity and undue insistence upon his subject. For it is worth noting that whenever men and women enter this neglected field of sex, with the intent to carefully explore it in every corner, they are suspected by the onlookers of a sinister purpose or regarded as 'morbid.'

"Such is the topsy-turveydom of the Philistine attitude to this question. Huber studied bees and ants throughout his life, Renan pursued lifelong researches in Christianity, Professor Owen concentrated his mind upon bones, Nettleship studies the eye. None of these investigators have been charged with morbidity because their intelligence has been devoted to a special study. It is only the specialist student of sexual science who is regarded as the victim of an obsession. And this fact, perhaps, more than any other, proves why we are still hampered in our search for light by the conflicting forces of reticence and prurience."

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